

## State-Building in Post-Independence Kosovo: Policy Challenges and Societal Considerations

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Kosovo Foundation for Open Society

# STATE-BUILDING IN POST-INDEPENDENCE KOSOVO:

## Policy Challenges and Societal Considerations



# **State-building in post- independence Kosovo: Policy Challenges and Societal Considerations**

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# State-building in post-independence Kosovo: Policy Challenges and Societal Considerations

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## List of Abbreviations

AAK – Alliance for the Future of Kosovo (Aleanca për Ardhmërinë e Kosovës)  
ACSM/ASM/CSM – Association/Community of Serbian Majority Municipalities  
AHD – Authorised Heritage Discourse  
AKM – Association of Kosovo Municipalities  
AKR – New Kosovo Alliance (Aleanca Kosova e Re)  
AP – Autonomous Province Kosovo

BiH/BH – Bosnia and Herzegovina (Bosna i Hercegovina)  
BIRN – Balkan Investigative Reporting Network

CBA – Central Bank of Kosovo  
CCS – Comparative Candidate Study  
CEFTA – Central European Free Trade Agreement  
CIDA – Canadian International Development Agency  
CoE – Council of Europe  
COMKFOR – Commander of Kosovo Force  
CPKSS – Comprehensive Proposal for Kosovo Status Settlement  
CSA – Council for Senior Appointments  
CSMP – Council on Senior Management Positions  
CSO – Civil Society Organizations  
CSR – Civil Service Regulation  
CSTO – Collective Security Treaty Organization

DCSA – Department of Civil Service Administration  
DFID – Department for International Development  
DIRI – Defense Institutional Reform Initiative  
DoES – Department of Education and Science

EC – European Commission  
ECMI – European Centre for Minority Issues  
EEAS – European External Action Service  
EU – European Union  
EUA – European University Association  
EULEX – European Union Rule of Law Mission in Kosovo  
EUSR – European Union Special Representative

FER – New Spirit Party (Partia Fryma e Re)  
FOC – Full Operational Capabilities  
FRY – Federal Republic of Yugoslavia  
FYROM – Former Yugoslav Republic of Macedonia

GDP – Gross Domestic Product  
GIZ – Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH

GLPS – Group for Political and Legal Studies

IBM – Integrated Border/Boundary Line Management

ICCROM – International Centre for the Study of the Preservation and Restoration of Cultural Property

ICJ – International Court of Justice

ICMM – Independent Commission for Mines and Minerals

ICMP – International Commission on Missing Persons

ICO – International Civilian Office

ICOMOS – International Council on Monuments and Sites

ICR – International Civilian Representative

IGO – Intergovernmental Organisations

IMF – International Monetary Fund

IMP – International Military Presence

IMWG DwPR – Inter-Ministerial Working Group on Dealing with the Past and Reconciliation

IOB – Independent Oversight Board

IOM – International Organization for Migration

ISG – International Steering Group for Kosovo

ISSR – Internal Security Sector Review

ITU – International Telecommunication Union

JSL – United Serbian List (Jedinstvena Srpska Lista)

KAF – Kosovo Armed Force

KCCH – Kosovo Council for Cultural Heritage

KCSS – Kosovar Center for Security Studies

KDTP – Turkish Democratic Party of Kosovo (Kosova Demokratik Türk Partisi)

KEK – Kosovo Energy Corporation (Korporata Energjetike e Kosovës)

KFOR – Kosovo Force

KIPRED – Kosovar Institute for Policy Research and Development

KLA – Kosovo Liberation Army (Ushtria Çlirimtare e Kosovës)

KOSTT – Kosovar Electricity Transmission, System and Market Operator

KPC – Kosovo Protection Corps

KS – Kosovo (Kosova)

KSF – Kosovo Security Force

KSIP – Kosovo Standards Implementation Plan

KTA – Kosovo Trust Agency

LDK – Democratic League of Kosovo (Lidhja Demokratike e Kosovës)

MARRI – Migration, Asylum, Refugees Regional Initiative

MCSC – Municipal Community Safety Councils

MEST – Ministry of Education, Science and Technology

MP – Member of the Parliament

MPA – Ministry of Public Administration

MTA – Military Technical Agreement

NAC – North Atlantic Council  
 NAPISAA – National Action Plan for the Implementation of the Stabilization and Association Agreement  
 NAT – NATO Advisory Team  
 NATO – North Atlantic Treaty Organization  
 NGO – Non Governmental Organization  
 NISMA – Initiative for Kosovo (NISMA për Kosovën)  
 NLAT – NATO Liaison and Advisory Team

OECD – Organisation for Economic Co-operation and Development  
 OHCHR – Office of the United Nations High Commissioner for Human Rights  
 OMPF – Office of Missing Persons and Forensics  
 OSCE – Organization for Security and Co-operation in Europe

PAK – Privatisation Agency of Kosovo  
 PAR – Public Administration Reform  
 PDK – Democratic Party of Kosovo (Partia Demokratike e Kosovës)  
 PISG – Provisional Institutions for Self-Government  
 PR List System – Proportional Representation List System

QCA – Qualitative Content Analysis

RECOM – Coalition for Regional Commission  
 RKS – Republic of Kosovo (Republika e Kosovës)  
 RSC – Regional Security Complex

SAA – Stabilisation and Association Agreement  
 SC – Municipal Community Safety Councils  
 SFRY – Socialist Federal Republic of Yugoslavia  
 SIDA – Swedish International Development Cooperation Agency  
 SLS – Independent Liberal Party (Samostalna Liberalna Stranka)  
 SNS – Serbian Progressive Party (Srpska Napredna Stranka)  
 SOE – Socially Owned Enterprises  
 SPAC – Senior Public Appointment Committee  
 SRSG – Special Representative of the United Nations Secretary-General  
 SSSR – Strategic Security Sector Review  
 STJK – Support to Transitional Justice in Kosovo

TVET – Technical and Vocational Training

UN – United Nations  
 UNESCO – United Nations Educational, Scientific and Cultural Organization  
 UNGA – United Nations General Assembly  
 UNHCR – Office of the United Nations High Commissioner for Refugees  
 UNICEF – United Nations Children’s Fund  
 UNKT – United Nations Kosovo Team

UNMIK – United Nations Interim Administration Mission in Kosovo/United Nations Mission in Kosovo

UNSC – United Nations Security Council

UNSCR – United Nations Security Council Resolution

UNDP Kosovo – United Nations Development Programme in Kosovo

UP – University of Prishtina

UPKM – University of Priština/Prishtina in Kosovska Mitrovica

USA/US – United States of America

USAID – United States Agency for International Development

USSR – Union of Soviet Socialist Republics

VV/LVV – Self-determination (Lëvizja Vetëvendosje)

WB – World Bank



# Abstracts

## PART I - STATE-BUILDING AND THE CHALLENGES TO REFORM

### **Hybrid Institutions? International Templates and Political Patronage in the Recruitment of Civil Servants in Kosovo (*Katarina Tadić*)**

Post-war Kosovo became subject of one of the most ambitious institution-building efforts by the international community. And yet, this massive form for institution-building has rarely delivered in terms of building sustainable or functioning institutions. The jury is still out on why this massive injection of external institution builders endowed with extensive competences and propelled by massive funding has resulted in merely feeble and often politically captured institutions. Public administration is a case in point to the extent it has been an area of massive international involvement and yet more often than not functions as a tool of patronage system and political control over state spoils. This paper analyses the evolution of public administration reform by tracing the role of international and local actors with different visions and stakes in the institution-building process. We focus on rules of recruitment as the locus of public administration reform and a crucial element of broader state-building processes. Specifically, we question how do rules of recruitment reflect the original templates of the international state-builders? What explains the prevailing patronage system we note after two decades of internationally-driven state-building process? Empirically, we focus on two crucial stages of state-building which feature different forms and degrees of international and local involvement in the process – the period when Kosovo was under UNMIK administration, 2000-2007; and the period after Kosovo declaration of independence when local actors gained the upper hand in process of state-building. The analysis provides evidence about the lack of coordination among international actors and local party patronage networks as the causes of politicization and ultimately political control we note throughout the process of reforming the civil service system. Finally, the result was hybrid institutions, formally shaped by international initiatives and informally determined by local parties' interest in controlling the spoils of the state.

### **Privatization or Patronage: Assessment of Difficulties in Kosovo's Privatization Process (*Dita Dobranja*)**

The question of whether privatization in Kosovo has been successful will be tested through the following hypothesis: the privatization process in Kosovo can be considered successful if it fulfills both benchmark criteria that developed and used in this paper. The criteria used to evaluate the process in Kosovo, are the following: (1) correct valuation of the enterprises that are privatized and (2) whether the enterprises reached their potential after privatization, rather than being re-destined or re-purposed. A successful privatization, thus, will be one that shows that the enterprise was correctly valued and privatized at its rightful value, and has not been re-purposed, but rather has reached its productivity potential after being privatized

Overall, the privatization process in Kosovo, cannot be considered successful, even when we consider the context and circumstances. Reasons ranging from the improper design of the privatization regulation, to political and institutional uncertainty, to the short period of time under which the privatization process was started, remain large determinants of the whole process. Evaluation of the privatization cases by criteria that are specific to the Kosovo process, while helpful, is difficult to be done in isolation from the underpinnings of the existing circumstances.

### **Crafting Exclusive Nations? The Role of Education in Post-war Kosovo (*Ervjola Selenica*)**

This paper traces the changing relationship between state and education at the intersection of diverging visions and agendas by local and international actors in post-war Kosovo. Specifically, we explore why and how externally-driven reforms that carry the ideals of an inclusive multi-ethnic polity clash with domestic actors' vision of education as a locus of national resistance and independent statehood. The empirical analysis identifies critical historical junctures when these competing ideals and relevant actors changed and/or gained importance to explain the direction of education reforms. The empirical analysis focuses on the post-war period, but we also consider the pre-war phases in order to highlight the predominant vision on the roles of education, its intertwinement with unfolding conflicts, and its centrality to processes of state formation and nation-building along an historical perspective.

The argument proceeds in six sections. Section one reviews the literature on the role of education in post war settings; section two identifies key junctures of state-building in Kosovo; section three evaluates the ideals of education during the pre-war; and sections four, five and six explores how these ideals were revised under the substantial role of international actors and were implemented by key domestic actors, thus giving place to a hybrid form of institution building. The analysis is based on genealogical historical narrative, textual analysis of key official documents and 10 semi-structured interviews conducted in Prishtina, in October 2016. The empirical analysis suggests that the role of education in post-war Kosovo reflects tensions between the multicultural ideals carried on by international actors and nationalist, often exclusive, concerns of local actors embedded in an unfinished and competing process of state- and nationbuilding.

## PART II – DEMOCRACY, CONTENTION, AND PARTY POLITICS

### **Exploring Citizens' Dissatisfaction with Democracy: Trends and Factors in Kosovo** *(Pranvera Tika)*

What are the perceptions of the public on the way democracy works in post-independence period of Kosovo? Does the public view a difference between the formal and the substantial democracy? Which is the vision of democracy being projected through the views and perceptions of the citizens? This article aims to understand the growing dissatisfaction levels regarding the way democracy works in Kosovo by focusing on factors related to the input and output side of the democratic system. The input part of the democratic system refers to the questions, issues and participation of the society in the democratic processes. The output side of the system refers to the quality of the government, parliament and the quality of the result of the political decisions in accordance with normative values or individual preferences and interests. The paper's thesis is that the more the political authorities are responsive and accountable to the needs of the citizens, the more positively the citizens are likely to assess the whole political regime and consequently the level of democracy.

The analysis on the state of democracy's conditions of Kosovo is based on a dataset of eight semi-structured interviews with representatives of the civil society. The analysis will be combined with survey data of UNDP with the aim to present a coherent picture of the problematic. The findings suggest that the dissatisfaction towards democracy does not imply a rejection to the democratic form per se, but it is rather a reflection of disillusionment with the performance of institutions as well as the unethical behavior of political actors. Accordingly, the initial support on the procedural form of democracy as a type of government is accompanied by the demand for a responsive and substantial form of democracy.

### **People's Power Hits Glass Ceiling? State-building and Contention in Contemporary Kosovo** *(Alma Vardari)*

This study seeks to examine how the EU agencies explain and interpret the protest events occurring in Kosovo. To this end, discourse analysis provides a suitable research method because it looks at the processes involved in the reproduction, transformation and constitution of social identities, social relations and systems of knowledge and beliefs. The data gathered and examined in this research includes EU announcements, communications, EU-Kosovo partnership documents, Quint's statements in the local media, in-depth interviews with senior EU officials currently residing in Prishtina, and several informal talks with key local actors.

Based on my analysis, my paper shows that despite the EU being a liberal actor, aiming to advance peace and democracy in Kosovo, on the ground its statebuilding discourse tends to 1) silence and marginalize critical local voices and challenging actions and 2) delegitimize and discourage political participation that challenges the current national and foreign power orders. My argument seeks to present the complexity of the EU discourse, on one hand advocating democratic statebuilding, while on the other, preempting local struggles, and undermining thus the power of the people in contemporary Kosovo.

## **The Impact of Personalization of the Electoral System on Intra-party Democracy: The Evidence from Kosovo (*Zlatko Vujović*)**

Most Balkan's countries are still into process of democratic transition and consolidation. This process has been upgraded by process of Europeanization. Kosovo represents smallest and newest independent state in Balkans. International actors are still playing crucial role in decision making process in Kosovo. One of neglected areas of research in this country is intra-party democracy. Does the personalization of an electoral system in Kosovo empower the process of democratization or preferential voting, specifically in the local context damage the process of building institutions in newly established democracy? Giving voters the power to influence the process of electing their representatives from candidate lists is definitely something that democracies should strive for. On the other hand, in societies where capacities of democratic institutions have not been developed enough, preferential voting can produce serious negative effects that can damage the work of state institutions. With five preferential votes, Kosovo becomes a "battlefield" during elections, not only between parties, but also very often within the parties themselves, perhaps even stronger.

In Kosovo case preferential voting represents strong institutional incentive for intra party democracy. But further democratization of political parties is limited by: (1) poor procedures of candidate selection for MP function (2) polarized party system and (3) weak law enforcement. These conditions are founding non-competitive surrounding for activities of candidates and party members limiting perspective of intra party democracy. Thanks to the CCS (comparative candidate survey) research we can have insight analyzing experience and attitudes of candidates for MP positions in Kosovo.

Further development of intra – party democracy is depending from institutional incentives (legal changes) as well as those coming from international associations to which national parties belong. Key institutional incentives should be adoption of the Law on political parties which should force political parties to determine the bases of democratic procedures, regarding the selection of MP candidates, the democratic selection of party leadership, and the party decision-making procedures. These solutions need to be followed by regulating the obligations of parties to keep accurate records of their membership in order to make sure of who is included in the electorate when it comes to intra-party decision-making. Adoption of Law on political parties should be accompanied by amending the legal provisions on financing of political parties, candidates and their campaigns, especially when it comes to effective control by independent depoliticized institution.

### **PART III – THE BRUSSELS DIALOGUE BETWEEN KOSOVO AND SERBIA: PROCESS AND IMPLICATIONS**

#### **The European Union and Peace Implementation: The case of Brussels Dialogue between Kosovo and Serbia (*Cemaliye Beysoylu*)**

This paper examines the conditions that influence the implementation process of the Brussels Agreements and demonstrates how the issues that stall the implementation are inherent part of the dialogue. Peace implementation focuses on the period parties turn the provisions of the signed accord into action. The implementation process is analysed along three dimensions; the role of the continuing international involvement, sincerity and capacity of the domestic actors to fulfil their commitments and the content and clarity and capacity of the agreed provisions to guide the implementation process. The paper proposes two intertwined factors that stall implementation of Brussels Agreements. Firstly, the stalled implementation process is an inherent part of the EU's hybrid facilitation strategy that combines neo functionalism and constructive ambiguity. Accordingly, the process progresses in cycles and nearly all issues are back and forth on the negotiation table for some time until all the ambiguous aspects are clarified and implemented. Secondly there is a dissonance between the neo functional logic of the EU and the way adversaries still perceive the conflict as an issue related to territory and sovereignty.

#### **Four Years of EU Mediation Efforts in the 'Brussels Dialogue of the Deaf': Analysing the Negotiations for the Association/Community of Serb Municipalities in Kosovo (*Miruna Troncotă*)**

Short after it was signed back in April 2013, the Brussels Agreement was praised by many analysts as the biggest success of the newly established European External Action Service (EEAS) and in more over-enthusiastic views even as 'the peak of EU's policy in the Western Balkans'. Three years after, these remarks look rather over-stretched. But as all sides admit, the most sensitive topic on the negotiator's agenda was the problem of Kosovo Serbs living in the four northern municipalities of Kosovo, which do not recognize the authority of Prishtina and function with parallel institutions backed by Serbia. Since 2013 their situation remained unclear, as the negotiating sides could not reach an agreement for establishing the Association/Community of Serbian Municipalities (ACSM hereafter) that would function under the authority of Prishtina. There is the dominating perception that the Brussels Agreement has not answered many crucial aspects regarding the issue of sovereignty, citizenship, and most importantly, the integration of local Serbs into the Kosovar society and polity. This concern is illustrated by the failure in reaching consensus on the ACSM. In this context, the study aims to understand the needs of all the main stakeholders in the Kosovo-Serbia Dialogue and to unpack the politics behind the legal ambiguities of the ACSM. Looking at how various actors from all three sides define the 'failure' of those negotiations becomes a task of utmost importance for both scholars and policy makers. The paper offers an overview of the main perceived obstacles for the implementation of the ACSM Agreement signed on the 25th of August 2015 and the political events that followed. The main hypothesis to be tested is that the lack of a mutual understanding of positions has directly affected the proper implementation of the ACSM, perpetuating a 'dialogue of the deaf'. The theoretical section explores the concept of mediation and EU's record in this field in

the Western Balkans. The empirical analysis uses interpretative policy narrative analysis methodology, with data gathered through semi-structured interviews with national representatives, EU officials and civil society experts, as well as on the examination of EU documents, newspaper articles and secondary literature. The conclusions show that the ACSM has multiple sources of ambiguity, thus leaving space for different interpretations and politicization which involves all the parties in the negotiations. This raises further questions on EU's strategy of post-conflict mediation in the Kosovo-Serbia Dialogue and beyond.

### **The Media Coverage of the Brussels Dialogue and Reconciliation Prospects in Kosovo** **(*Andrea Garaiova*)**

Just few months following its widely cheered launch in the autumn of 2012, the prospects of the Brussels Dialogue delivering fundamentally positive results in the relations of Kosovo and Serbia, and Serbs and Albanians, came under doubt. Commentators and analysts hung question marks over the direction, objectives, length, contents, accountability and transparency of the Dialogue. The media are confronted with particular difficulties when trying to keep their audiences in the loop of what is happening within the process and what are the implications for their everyday lives. But they do not remain idle. Instead, they face the adversity and publish the little information they are able to gather for it to appear in the public arena. This raises a number of questions. In the absence of complete, detailed, accurate information, what are the issues they focus on? How are the topics related to the Brussels Dialogue framed by media in Kosovo? How do the frames vary between Albanian and Serbian media, and different time periods? Do the perceptions of civil society members and experts that Kosovo and Serbia representatives and media outlets use a predominantly victory-defeat vocabulary hold against a systematic examination of the media content? Via a media content analysis and expert interviews, the paper examines the framing of the Brussels Dialogue related media coverage by Albanian and Serbian newspapers in Kosovo. The study seeks to uncover and analyse dominant frames in the news reporting on the Dialogue and relate the findings to the communications and conflict research, thus sketching the potential impact of the reporting on inter-community relations and prospects for reconciliation in Kosovo.

## **PART IV – SOCIAL RELATIONS AND THE CHALLENGE OF RECONCILIATION**

### **Dealing with the Past and the Process of Reconciliation in Kosovo (*Atdhe Hetemi*)**

Independent Kosovo faces uneasy task of dealing with its recent violent past, which is frequently interpreted as either traumatic and/or heroic. The latest war in Kosovo (1999) resulted in numerous victims and displaced population. These previous severities, even nowadays are causing ongoing hostility of mutual oppression and disrespect among communities living in Kosovo. In addition to healing the traumas of the recent war, Kosovo also struggles with an absence of an effective institutional attempt for implementing a comprehensive dealing with the past process in Kosovo. The article shows that consequences of how the past is embraced, adjusted, or silenced, affects - even determines - the inter-ethnic relations and social acceptance trends among communities living in Kosovo. This study employs qualitative and quantitative research methodologies, which consist of a combination of different sources on this topic, as well as expert interviews conducted with activists working in the field.

### **Cultural Heritage: Contested Perspectives and Strategies in Kosovo (*Nikolaos Pasamitros*)**

Cultural heritage – whether understood as a normative policy concept or a practice – is fraud by an inherent contradiction: it can foster both conflict and reconciliation. Universalist applications tend to stress the concept's role as a potential vehicle for rapprochement, whereas, from an ethnocentric perspective, it can serve as a tool for strengthening in-group identity. Contemporary Kosovo and its political reality of a frozen conflict, offers a paradigmatic case study for this contradiction. This paper identifies the contested perspectives and strategies of selected stakeholders in Kosovo's cultural heritage, reflecting a discrepancy between local, ethno-nationalist and international, universalist-reconciliatory aims. It explores both the impact and effect of these struggles over cultural heritage on Kosovo's current political reality. Following a general exploration of the historical and theoretical foundations underpinning the relevant contradiction and its impact on identity formation, this study then applies theory to practice on the basis of field interviews conducted with cultural heritage stakeholders in Kosovo in 23-29 October 2016. It concludes that, in Kosovo, universalist, reconciliatory approaches are currently not effective, while the ideological uses of heritage for ethnocentric aims is a common practice. However, the paper also highlights the potential of Kosovo's underexplored and currently neglected spiritual heritage, specifically interreligious pilgrimage and joint veneration of shrines, as a potential vantage point for conflict transformation with an inherently universalist message transcending any ethnic division.

### **Contested Territory - History Textbooks and the Domestic Politics of Education in Kosovo (*Narcisa Semić*)**

This study aims to analyse Serb and Albanian history textbooks currently in use in Kosovo's school system. It traces the inherently contradictory claims of Serb and Albanian national historical narratives through focusing on representations of a selected time period, the period of ancient and medieval history. It asks how these representations rely on similar or different



types of national myths in constructing the respective ethno-national identities through exploring the 'antiquitas myth' and its specific expressions and functions, respectively. It finds that, in both cases, such type of myth serves to underpin claims to territory and historic space. The study further confirms that the textbooks are derivatives of the two parallel educational systems that still exist in Kosovo today as a legacy of the turbulent 1990ties when ex-Yugoslavia disintegrated. Since then, education has been the focal site of divergent identity constructions. Lastly, the study relates the ideological content of the textbooks to the question of their distribution and usage and the ways in which this reflects the complex and problematic, contemporary relations between the Republic of Serbia and the Republic of Kosovo.

### **Traditional Mediation Practices at a Decentralized Level: A Resource for or an Obstacle to Kosovo's State-building Process? (*Mirjona Sadiku*)**

This paper analyses the application of traditional mechanisms of conflict resolution in rural Kosovo in the context of decentralisation. It asks whether these cultural specificities provide a resource for, or form an obstacle to, enhancing interethnic relations in contemporary state-building in Kosovo. The study is organised in three main parts: (1) The influence of local traditions of mediation and reconciliation within the process of power devolution to local institutions; (2) theoretical considerations regarding universal prerequisites of reconciliation and their correlation with the parameters of traditional mediation and reconciliation in Kosovo (this part also introduces a historical overview over questions of local autonomy during Yugoslav state socialism, with a focus on the nationalisation of reconciliation movement during the anti-blood feud campaign in 1990-1992s); (3) it offers insights of reconciliation practices in contemporary decentralised and multi-ethnic Kosovo.

The study argues that traditional knowledge of community mediation might provide parameters for self-regulated reconciliation in contemporary Kosovo across ethnic lines. Although rare, it identified and documents a few examples of where this happens in practice. It identifies four traditional elements which could help facilitate inter-ethnic integration and peace-building in Kosovo. These elements consist of a) third party neutrality; b) respectful reputation; c) social trust; d) compliance with the agreement reached. Among these, a respectful reputation and social trust seem to be of paramount importance. This study points out that where these four elements converge, they likely encourage inter-ethnic peace-building at local level.



## **PART V – SECURITY CONSIDERATIONS: DOMESTIC AND REGIONAL PERSPECTIVES**

### **From Kosovo Liberation Army to Kosovo Security Force and Beyond: The Question of the Kosovo Armed Force (*Giorgos Triantafyllou*)**

Almost a decade after its declaration of independence, Kosovo continues to depend on NATO's KFOR for its protection from external threats. The lack of a national army might be considered a challenge to the assumption that Kosovo is a sovereign state, fuelling the argument that Kosovo's statehood remains contested. This paper set out to explore why Kosovo has not developed its own armed forces and, how Kosovo could complete its security institution building through the establishment of Kosovo Armed Forces (KAF). The paper suggests that the current stalemate in the transformation of the Kosovo Security Force (KSF) into KAF is the cumulative result of two factors. The first being the complexity of the issue, which touches upon a wide range of internal and external considerations, and the second being the government's inability to balance the high expectations of Kosovo Albanians and the adamant objections of Kosovo Serbs. The first part of the paper offers an overview of the security institution building in Kosovo, since 1999, with reference to the demilitarisation of the Kosovo Liberation Army (KLA), the formation of the Kosovo Protection Corps and the establishment of the KSF. The second part of the paper discusses the development of the KSF and explores the political, legal and international considerations related to its transformation into KAF. Finally, the paper presents three different scenarios on how the government of Kosovo could proceed to resolve this issue.

### **The Normalization of Relations between Kosovo and Serbia: A Regional Security Complex Perspective (*Miroslava Kul'ková*)**

The article studies from a regional security complex (RSC) perspective the Western Balkans. It argues that the relation between Serbia and Kosovo is at the center of this complex. It examines the most successful channel of normalization of their mutual relations so far – the Brussels dialogue, how the latter contributed to the evolution of the RSC and what are the prospects of both the normalization process and the RSC. The main finding is that even though the EU-mediated dialogue brought some level of cooperation and eased the relations on the political level; it did not contribute much to the general normalization of relations between Kosovo and Serbia. The Western Balkans RSC has remained at the stage of a security regime. The main reasons for little progress are, on the one hand, lack of genuine intent to resolve the conflict by both adversaries and, on the other, division in the international community. The evolution of the RSC will be determined by both the will of the adversaries and the international environment. External stakeholders can either foster the deterioration of mutual relations between adversaries or help to resolve their disputes. The outcome depends on the unity of their approach.



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# Introduction

**Ioannis Armakolas, Agon Demjaha, Arolda Elbasani, Stephanie Schwandner-Sievers,  
Elton Skendaj and Nikolaos Tzifakis**

Almost ten years since independence, Kosovo remains in deep crisis and challenged by a powerful mix of political, economic and social problems. To name but few: the consolidation of Kosovo's international status is slow, with no certain end in sight; corruption is rampant and economic prospects for most Kosovars, and especially the young, remain bleak; the re-integration of the Serbian community and genuine reconciliation are still in need of a real breakthrough; the once-promising dialogue with Serbia is stalled; political polarization is on the rise, while citizens' trust in democratic institutions and their political leaders are at an all time low. While some of these problems have in recent years become more acute it can plausibly be argued that they are not at all novel. What is, however, relatively new is a growing distrust in the international community's capacity to lead Kosovo out of the quagmire. The citizens of Kosovo remain among the most pro-Western peoples in Europe. But gone are the days when Kosovars had absolute trust in the international community as the central actor designing reforms and guiding policymaking. Kosovars still desire their country's entry to the European Union and its anchoring to the West, but their trust in their international protectors' ability to deliver these is seriously weakened.

It is worth remembering that what Kosovo is experiencing - early hopes, massive international assistance, deadlocked reforms, crisis of strategy, persistent and multilevel crisis, citizens' frustration - is not new in the region. Bosnia-Herzegovina, another post-conflict democracy challenged by immense problems and receiving massive international support, experienced a similar situation that eventually led to a psychological rift between the international overseers and the Bosnian citizenry. The process of gradual failure in Bosnia was monitored and studied extensively by scholars. Early critics, for example, charged the international community with building institutions and developing policies that were far from a genuine democracy (see e.g. Chandler 2000). Overtime, studies pointing to the 'accountability deficit' of international administrators became commonplace (see e.g. Caplan 2005b) and so have criticisms that focused on a 'dependency syndrome' as a negative side effect of the international influence in the country (see e.g. Papić 2001a). In that context, among the most forceful critiques were waged against the 'heavy hand' policies of the Office of the High Representative under Paddy Ashdown, dubbed by pundits as a 'European Raj' (Knaus and Martin 2003). Interestingly, some works have attempted to draw lessons from the Bosnian experience for use in other Balkan cases (see e.g. Belloni 2007; Fagan 2010; Papić 2001b), while others considered Bosnia and Kosovo in parallel and within the broader discussion of scholarly and policy questions of state-building, international administrations or neo-trusteeship (see e.g. Caplan 2005a; Chesterman 2004; van Willigen 2013; Zaum 2007).

Still, the fact remains that the mounting problems that Kosovo still faces require solid analysis and creative policy thinking. The present edited volume is an attempt by a number of young or more experienced researchers to contribute with their scholarship to the task of understanding the complexity of contemporary policy making in Kosovo. The book is divided into five parts

corresponding to different policy areas: i) state-building and the challenges to reform, ii) democracy, contention, and party politics, iii) the Brussels Dialogue between Kosovo and Serbia: process and implications, iv) social relations and the challenge of reconciliation, and v) security considerations: domestic and regional perspectives.

These parts roughly correspond also to the structure of the research project that led to this publication. Five co-editors of this publication were each responsible for leading and supervising research in one of the policy areas examined: Arolda Elbasani for Part I (state building and reforms), Elton Skendaj for Part II (democracy and party politics), Agon Demjaha for Part III (Brussels Dialogue), Stephanie Schwandner-Sievers for Part IV (society and reconciliation), and Nikolaos Tzifakis for Part V (security policy). The same authors drafted also the relevant sections of this Introduction. Authors and their supervisors have an almost exact fit in this edited volume, with the exception of the contribution by Atdhe Hetemi, whose research was supervised by Agon Demjaha but his chapter was included in Part IV of our publication. Ioannis Armakolas designed the research project and led its implementation; he also had the overall responsibility for the realization of this publication.

Needless to say, the thematic ‘division of labour’ in this volume is largely an editorial ‘convenience’. In other words, in many respects, different chapters and all five parts have much in common. Themes and topics, foci of analysis and key concepts are shared across different chapters. Certain actors and processes naturally flow through all thematic areas and almost all individual chapters. The role of the international community is for the most part the central focus or a key parameter in analysis. Domestic political elites and the civil society are the other key actors that are analysed. The interplay between domestic and international actors is also a key consideration - whether explicitly or implicitly - in almost all chapters. The legacy of the war and the turbulent 1980s-1990s constitute the backdrop for all analyses. The evolution in institutional forms, policies and ideas after the 1998-99 war are also key considerations in our volume. All these are, in our view, also what make this volume fascinating. For those interested in the recent history and contemporary political and social reality of Kosovo the different chapters in this volume read as pieces of a jigsaw. Though by no means an exhaustive list, the sixteen different analyses of policy areas offer plentiful perspectives and insights on contemporary Kosovo. This variety demonstrates both the complexity and the attraction of policy making in the newest Balkan state.

## **Part I – State-building and the challenges to reform**

Post-war Kosovo has been target of an unprecedented internationally-led and -devised campaign of state-building. This external experiment involved a long-term military and civilian component along pouring of experts, advice, institutional transfers and financial assistance from different structures of the international community (Capussela 2015; Skendaj 2014b). Additionally, Kosovo had all the prerequisites of a potentially successful intervention to the extent it combined a powerful unity among key international players to solve a humanitarian crisis, while benefiting from the presence of NATO as well as a network of regional organizations. Hence, Kosovo provides a crucial case to analyze complex questions regarding the role of civilian and military missions in promoting sustainable institutions, the capacity of international

community to promote its norms, the conditions for the diffusion of external norms in local contexts, the emerging conflicts between internal and external visions of institution-building, and, ultimately, regarding local ownership of institutions and norms promoted and transferred in the process.

Empirical answers to these questions have certainly evolved according to the degree and modality of international involvement. During the first stage of state-building (1999-2007) the international community enjoyed exclusive competences to set up rules, to build new institutions and to run the post-war polity. The post-independence period (2008-to present) saw the gradual transfer of power to elected local authorities and their increasing sway over new institutions and ongoing reforms. This shift of the pendulum from the international community to local power holders enables us to compare and juxtapose international agendas and local visions for the future of the polity. Unsurprisingly, the shift brings to the fore different, sometimes overlapping and sometimes conflicting, international and local understandings about the nature of post-war Kosovo (Tholens and Gross 2015). Certainly, the shift of governing power moves the focus of research from questions related to how much the international community has delivered, to how much the newly-built institutions fit into the local milieu. After almost two decades of accumulated evidence, the jury is still out on whether the massive and costly external intervention has delivered, what was achieved in terms of functional institutions or sustainable peace, and why the case.

The chapters in Part I analyze this massive effort of state-building at the intersection of external state-building and local visions and practices (Richmond and Jason 2008; Gross 2015). Each chapter outlines the array of international and local actors involved, respective competences and convolution of different agendas focusing on specific facets of state building: public administration, education, and privatization. All chapters also follow a time-sensitive analysis, which enables them to compare and juxtapose the role of international structures and local authorities at different junctures of reform. The analysis offers rich empirical insights and meaningful theoretical indices to evaluate the role of different actors and agendas in the process of foreign-led state-building and institutional reshuffling (Capussela 2015; Elbasani 2013). Whether in the area of public administration, education or privatisation, the analyses point to the failure of the international community to provide comprehensible, coherent or consistent templates. Analyses also show the failure of the international community in providing stable legal or institutional frameworks even when they enjoyed exclusive powers to set up the rules of the game.

Too many actors conjoined by a loose structure of authority, overlapping if not sloppy form of external governance, and conflicts over priorities within UNMIK structures set the stage for a fragmented, inconsistent and poorly designed institutional framework (Papadimitriou and Petrov 2013). This poor design is explicit in the failure of 2001 Civil Service Law to distinguish between civil servant status and status of public employees, or to outline the criteria for long-term recruitment in the administration, which almost immediately posed the problem of unclear provisions, lack of specificity and numerous necessary amendments (Tadic's chapter). Similarly, the internationals' campaign to reform education in line with the objective of forging a pluralist and multi-cultural society while establishing the basis of sustainable peace has not really delivered. More often than not the external campaigns to instill pluralism and European standards led to the multiplication of curricula in different languages, failure to promote mutual understanding, and, more problematically, the segregation of education into an Albanian

system and a Serbian one that rarely meet or collaborate (Selenica's chapter). The reality of too many international structures sharing a complex division of responsibilities and shifting competences has also been the hallmark of Kosovo's privatization process, which seemingly evolved isolated from public input and the broader local context and concerns (Dobranja's chapter). Kosovo confirms that the use of myriads of external state-builders who move around Balkans to offer governing services and advice for hefty salaries is more often than not a poor recipe for sustainable reforms. The analysis of all areas under investigation shows that the uncoordinated templates that those international structures offered when combined with the lack of accountability for their deeds and misdeeds has become part of the problem rather than a successful recipe to external state-building.

Besides the fuzzy modality of external intervention, Kosovo faced a set of mounting 'initial conditions' that were hardly inductive to reform and gained importance after the transfer of power to local authorities. To start with, the institutional vacuum inherited from decades of civil resistance toward the central federal authority had created an environment undermining central authority, formal institutions and rule of law in particular. The conflict and animosities among constituent communities also left behind a deeply divided polity that had little propensity to reach consensus or foresee a common future. The post-war local political landscape was dominated by parties stemming from groups within the Kosovo Liberation Army, which brought at the midst of the emerging polity some of the unruly segments of the war as well as tight clientelistic networks (Visoka and Richmond 2017). The immense load of institution building would be a burden for any governing authority, but was to be particularly challenging for those war-fomented political groups. Without much of an ideology or strategy for the future, those political parties leaned towards controlling the state for personal and political benefit, as soon as they could do so. In all cases under analysis – public administration reform, education and privatization – corruption, party patronage and state capture slowly but steadily emerged as 'the rule in town'.

Finally, all chapters in this section demonstrate the gap between external actors' initial vision and the actual evolution of reforms, which far from original templates reflect the unfinished, hybrid and informal nature of new institutions (Elbasani and Šabić 2017). The emerging institutions, rules and procedures in all areas under study resemble only formally to original templates: professional administration, pluralist education, and quick and effective privatization. De facto, those templates are twisted and function according to local actors interest and vision: infiltration of party cronies across the administration (Tadic's chapter), ethnic segregation of higher education (Selenica's chapter), and abuse of privatization through under-valuation of public property (Dobranja's chapter). All cases here affirm the increasing role of party patronage schemes and mechanisms of state capture as the dominant factor in explaining the hybrid nature and de facto functioning of externally-devised reforms.

More specifically, Katarina Tadic's chapter analyses the evolution of public administration reform by tracing the role of international and local actors and their visions of state-building. Specifically, the chapter focuses on rules of recruitment as the locus of public administration reform, which is itself a crucial element of state-building processes. The empirical investigation evolves around the following key questions: how do rules of recruitment reflect the original templates of the international state-builders? What explains the prevailing patronage system noted after two decades of internationally-driven state-building process? Methodologically,

the analysis differentiates between two crucial stages of state-building which feature different forms and degrees of international and local involvement – the period during UNMIK administration, 2000-2007, when international enjoyed exclusive governing authority; and the period after Kosovo's declaration of independence when local actors gained the upper hand in devising the rules and governing the country. The analysis provides evidence for the lack of coordination among international actors and local party patronage networks as the causes of politicization and political capture of the civil service system. This kind of reform features hybrid institutions, formally shaped by international initiatives and informally determined by local parties' interest in controlling the spoils of the state.

Dita Dobranja's chapter discusses the privatization process by highlighting: 1) the criteria for valuation of the sold enterprises, and 2) the degree to which they reached their potential or were re-destined to other purposes. Her research goes to the core of a overall problem of post-communist privatization as 'the sale of enterprises that no one owns and whose values no one knows, to buyers who have no money'. Yet, this general problem is further contextualized to take into account the Kosovo specificity as a case of uncertain statehood and conflicting ideas and responsibilities among different international and local actors. The Kosovo Trust Agency, created in 2002 in order to manage the process of privatization reflects the existence of many structures with a complex division of responsibilities and changing competences, which add another layer of complexity to the issue of privatization. The analysis relies on triangulation of qualitative and quantitative data to assess the correct evaluation of privatized enterprises and whether they achieved their potential after being privatized. The investigation suggests that overlapping jurisdiction of the institutions involved, the uncertainty of Kosovo's political status, the fast privatization process, which featured little public input while adding to the structural difficulties of assessing companies depleted by ongoing conflict and war, undermined a correct assessment of the value of public companies and their reutilization. Even what is considered to be one of the very few success stories – the company Ferronikeli - seemingly owes its success to clear conditions for bidding companies but also to on-going state subsidies, which complicate the very goal of transferring state ownership to private hands.

Ervjola Selenica's chapter explores how externally-driven educational reforms that carry the ideal of an inclusive and multi-ethnic state clash with local actors' visions and ideals of education as a site of national resistance and independent statehood. As a country that after the fall of communism embarked on a long battle for independence and statehood, Kosovo provides a crucial case to analyze the role that education acquires as a symbolic producer, the amplifier and expression of nation and statehood. Yet, the international community attempted to shift the focus from separate ethnic claims towards a common multi-ethnic state identity. The analysis suggests that internationals' strategy of emphasizing collective rights and ample autonomy for separate communities have backfired. Not only did the international reforms enabled segregation of education, but also insistence on substantial autonomy for ethnic communities made segregation a rational choice to pursue by already divisive local actors. Ultimately, the role and functions of education in post-conflict Kosovo can be seen as the product of the interaction between internationals' poor promotion of a multi-ethnic education system as the foundation for a new multicultural polity and local elites' sticking to a vision that remains mono-national and ethnically exclusive. The resulting educational system reflects tensions between multiculturalism and nationalism that mark an unfinished and conflicting process of state- and nation-building.



## Part II – Democracy, contention, and party politics

Post-war Kosovo is undergoing multiple transitions: from war to peace, from authoritarianism to democracy, from federal Yugoslavia to the new and independent polity. The postwar reconstruction of Kosovo has relied upon the liberal peacebuilding framework in which international actors provide support for elections, civil society and accountable state institutions in order to prevent the resurgence of civil war (Paris 2004). Ample research has demonstrated that democratic institutions and effective state bureaucracies enable better life chances for individuals and societies, help prevent civil war, terrorism (Fearon and Laitin 2004; Krasner 2004), and failed states (Bates 2008; Ashraf and Lockhart 2008; Rotberg 2004), as well as promote development (Keefer 2004). Critics of liberal peacebuilding counter that it downplays local ownership of the democratic process (Blease and Qehaja 2013) or that internationally-led peacebuilding is unable to tackle corruption and organized crime because it prioritizes stability over security (King and Mason 2006; Capussela 2015). Peace processes can be coopted by local actors and therefore marginalize minorities in the process (Franks and Richmond 2008). The presence of clientelistic parties in Kosovo, which use the spoils of the state to favor their members suggests that there is a trade-off between democratization and state-building: devolving authority early to elected politicians in Kosovo to create state institutions lowered the quality of the central administration (Skendaj 2014a). The focus of most recent research on Kosovo has been on overall state institutions as well as elite politics. Multiple processes of change in Kosovo require new investigations on how the public perceptions interact with democratic processes, how contentious politics is interpreted by local and international actors, as well as how party candidates for parliament interact with their constituents.

In Part II, three researchers investigate such important questions of democratization and state-building. They use various methods to investigate their questions, including semi-structured interviews, survey data and discourse analysis. They investigate various actors, including political parties, citizens, social movements, the Kosovar government and the European Union. Their analyses point to the difficulties of institutionalization of democracy in Kosovo as well as indicate areas for growth in democracy and state-building. Pranvera Tika's chapter starts by asking the following questions: What are the perceptions of the public about the way democracy works in the period after the independence of Kosovo? Does the public perceive a difference between the formal and the substantial democracy? Which is the vision of democracy being projected through the views and perceptions of the citizens? Tika's chapter aims to understand the growing levels of dissatisfaction with the way democracy functions in Kosovo by focusing on both the input and output side of the democratic system. The input part of the democratic system refers to the questions, issues and participation of the society in the democratic processes. The output side of the system refers to the quality of the government and parliament and the quality of the result of the political decisions in accordance with normative values or individual preferences and interests.

For analyzing the state of democracy in Kosovo and present a coherent picture of the trends of citizen dissatisfaction the author uses semi-structured interviews with representatives of the civil society as well as UNDP's survey data. Importantly, the findings suggest that the dissatisfaction with democracy does not imply a rejection to the democratic form per se, but it is rather a reflection of disillusionment with the performance of institutions as well as the unethical



behavior of political actors. Accordingly, the initial support on the procedural form of democracy as a type of government is accompanied by the demand for a responsive and substantial form of democracy. The implication is that Kosovo citizens do not reject the democracy as their preferred regime, but they have expectations for the responsiveness and accountability of democratic institutions that are not currently met. Overall, Tika argues that the more the political authorities are responsive and accountable to the needs of the citizens, the more positively the citizens are likely to assess the whole political regime and consequently the level of democracy.

Alma Vardari's chapter seeks to examine how the EU agencies explain and interpret the protest events occurring in Kosovo. To this end, discourse analysis provides a suitable research method because it looks at the processes involved in the reproduction, transformation and constitution of social identities, social relations and systems of knowledge and beliefs. The data gathered and examined for this analysis include EU announcements and communications, EU-Kosovo partnership documents, Quint's statements in the local media, in-depth interviews with senior EU officials currently residing in Prishtina, and several informal talks with key local actors. Vardari argues that EU's state-building discourse in Kosovo contradicts the EU's liberal norms. As an actor, EU possesses liberal norms that aim to advance peace and democracy in Kosovo. Paradoxically, the EU's discourse on state-building in Kosovo tends to: 1) silence and marginalize critical local voices and challenging actions, and 2) delegitimize and discourage political participation that challenges the current national and foreign power orders. Vardari's argument seeks to present the complexity of the EU discourse, on one hand advocating democratic state-building, while on the other preempting local struggles, and thereby undermining the power of the people in contemporary Kosovo. The chapter adds important nuances to the critiques of the liberal peacebuilding projects in Kosovo and beyond.

Zlatko Vujović's chapter analyzes the impact of the personalization of electoral system in intra-party democracy in Kosovo. In the context of the democratic transition, consolidation and Europeanization in the Balkans, an important and yet neglected area of research is intra-party democracy. As Kosovo has shifted to an open list proportional electoral system, voters have the power to influence the process of electing their representatives from candidate lists. Research conducted in consolidated democracies shows that such personalization of voting is a positive development. But in societies where the capacities of democratic institutions have not been developed enough, preferential voting can produce serious negative side effects that can damage the work of state institutions. Vujović asks the following questions: Does the personalization of an electoral system in Kosovo empower the process of democratization? Or does preferential voting damage the process of building institutions in newly established democracies such as Kosovo? Using the Comparative Candidate Survey research, Vujović analyzes the experience and attitudes of candidates for member of parliament.

In the Kosovo case, preferential voting represents strong institutional incentive for intra-party democracy. But further democratization of political parties is limited by: 1) poor procedures of candidate selection for MPs, 2) polarized party system, and 3) weak law enforcement. With five preferential votes, Kosovo becomes a 'battlefield' during elections, not only among parties, but frequently also within the parties themselves. Further development of intra-party democracy depends on institutional and legal incentives as well as those coming from international associations to which national parties belong. Key institutional incentives should be the adoption of the law on political parties, which should incentivize political parties to determine democratic

procedures on the selection of candidates for MPs, the democratic selection of party leadership, and the party decision-making procedures. These solutions need to be followed by regulating the obligations of parties to keep accurate records of their membership so that the question of inclusion intra-party decision-making is addressed. The adoption of the law on political parties should be accompanied by amendments to the legal provisions on financing of political parties, candidates and their campaigns, especially when it comes to effective control by an independent depoliticized institution. Vujović's chapter contributes to the literature of the impact electoral rules on democratic outcomes. The paper has also important policy implications for institutional design in Kosovo.

## **Part III – The Brussels Dialogue between Kosovo and Serbia: Process and implications**

Part III analyses the process of the Brussels Dialogue between Kosovo and Serbia and examines the overall implications of that process. According to the UN General Assembly Resolution 64/29, the dialogue between Prishtina and Belgrade facilitated by the European Union “would be a factor for peace, security and stability in the region,” with the aim “to promote co-operation, achieve progress on the path to the European Union and improve the lives of the people.” Since March 2011, under the auspices of the EU, several rounds of negotiations between the two countries have taken place focusing on regional cooperation, freedom of movement, and rule of law. Nevertheless, the most important agreement was reached on 19 April 2013 when Kosovo and Serbia signed “The First Agreement of Principles governing Normalization of Relations”, commonly known as the Brussels Agreement (The First Agreement 2013).

The Agreement aimed at integrating Kosovo Serb majority municipalities of Northern Kosovo, into the constitutional and legal system of Kosovo through establishment of an Association/Community of Serb Municipalities (ACSM). Accordingly, the ACSM would have “full overview of the areas of economic development, education, health, urban and rural planning.” Among others, the Agreement also guaranteed integration of all Serbian security structures of the North into Kosovo institutions, thus implying that there will be only one Kosovo Police Force. The EU and other major international actors such as US, OSCE, NATO and UN have all hailed the agreement as a historic break-through for Kosovo-Serbia relations, since a successful implementation would contribute to the normalization of relations between the two countries, while also enabling the integration of the Serb community into Kosovo's society.

On 25 August 2015, Kosovo and Serbia finalized four new agreements on the establishment of an Association/Community of Serbian Municipalities, energy, telecommunications, and the freedom of movement over the Mitrovica Bridge (The Association/Community Agreement 2015). But while these agreements were supposed to be implemented during 2016, in practice this has not happened. Especially the establishment of the ACSM has proven to be the most disputable part of the agreement (Zeqiri, Troch and Kabashi 2016; Nešović and Celeghin 2015). The opposition parties in Kosovo have fiercely criticized the agreement, fearing a de facto federalization of the country as well as Serbia's interference in Kosovo's internal affairs. Several violent demonstrations were staged in Prishtina, while opposition parties frequently set off

tear gas in the parliament. Relations between Kosovo and Serbia have further deteriorated due to the latest incidents between the two sides: the construction of a concrete wall in northern Mitrovica by the Serb authorities, the arrest of former Prime Minister of Kosovo, Ramush Haradinaj, in Paris, and the attempt by Belgrade authorities to operate a direct train between Belgrade and northern Mitrovica decorated with nationalist slogans. These incidents have spiked the tensions between the two sides to alarming levels (Bajrami 2017).

As a result, the Kosovo authorities have suspended the dialogue with Serbia until the release of former PM Haradinaj. Meanwhile, Prime-Minister Vucic further strengthened his position in Serbia by winning a landslide victory in presidential elections of April 2017. Moreover, the June 2017 parliamentary elections in Kosovo have produced results that make the formation of the new government a challenge - the Coalition of PDK, AAK and Nisma has won the elections, however, with only 39 deputies they can hardly form a government. It is highly likely that Kosovo will enter to another round of institutional crisis, similar to one after the parliamentary elections of 2014. With such a reality, the dialogue between Kosovo and Serbia will probably remain suspended, thus making the prospects for full implementation of Brussels Agreement extremely bleak.

Scholarly papers analysing the Brussels Agreement and its implementation remain scarce. Therefore, the three papers included in Part III represent among the first academic attempts to bring together in-depth and impartial analysis of Albanian and Serb perspectives of the Brussels Agreement. Miruna Troncotă's chapter explores the main perceived obstacles for the implementation of the ACSM. Through her research question, "How have the mixed interpretations by the EU, Serbia and Kosovo impacted the implementation of Brussels Agreement, and in particular the lack of consensus for the establishment of the ACSM?" Troncotă shows that lack of a mutual understanding of positions has directly affected the proper implementation of the ACSM, thus perpetuating a 'dialogue of the deaf'. Her research found the aspiration of both Serbia and Kosovo to improve their prospects of future EU membership as the strongest 'connector' in the Dialogue. The fact that all sides agree that the ACSM's existence is legitimate and that it is necessary for it to operate under Kosovo law and work closely with the central authorities of Kosovo was also identified as an important 'connector'. Still, she argues that the ACSM was framed under the very divisive rhetoric that permanently labelled 'winners' and 'losers' in the process, which set the main 'dividers' at the centre of the public debate. In addition, contradictory perceptions of the role of the EU as a mediator as well as the shifting positions of the mediator itself have seriously undermined the efficiency and credibility of EU's actions in the process. Troncotă concludes that the biggest challenge for the implementation of the Brussels Agreement is to accommodate this mix of interpretations which have hindered the expected results of the Agreement.

Cemaliye Beysoylu's chapter examines the conditions that influence the process of implementation of the Brussels Agreement and demonstrates how the issues that stall the peace implementation phase are inherent parts of the Brussels Dialogue. Beysoylu identifies the EU's hybrid facilitation strategy of neo-functionalism and constructive ambiguity and the dissonance between the logic of the EU and those of the adversaries of the conflict as two main factors that stall implementation of the Brussels Agreements. The stalled implementation process is an inherent part of the EU's neo-functional cum constructive ambiguity approach. The ambiguous aspects of the primary agreements lead to partial implementation; when the implementation

gets blocked by the initially facilitative ambiguities then parties are back to the negotiating table for renewed attempts of implementation. However, Beysoylu argues that instead of serving as a facilitative function such approach turns into constraining factor that contributes to the persistence of crisis in the implementation stage. Beysoylu also suggests that such negotiation strategy did not trigger the spillover effect envisaged by the EU, since the neo-functional logic was not fully embraced by the adversaries in the conflict, for whom the core issues are territory and sovereignty. She concludes that when the re-evaluation of their mutual vulnerabilities reveals potential threats of weakening or when the carrot of membership is not strong enough to facilitate an interest-based policy shift, adversaries display reluctance to facilitate implementation.

Finally, Andrea Garaiova's chapter offers a somewhat different perspective on the Brussels Dialogue by analyzing media reporting in Albanian and Serbian language. Garaiova employs media content analysis and expert interviewing in order to examine the framing of the Brussels Dialogue by Albanian and Serbian newspapers in Kosovo. The paper seeks to uncover and analyze the dominant frames in the news reporting on the Dialogue, thus sketching the potential impact of such reporting on inter-communal relations and the prospects for reconciliation in Kosovo. The chapter demonstrates a presence of conflict oriented framing of the process in online media articles, and at the same time highlights the resonance of the zero-sum mindset in the audiences in Kosovo. Struggling with access to information, Garaiova argues, media resort to simple reproduction of official statements by political representatives who do not shy away from adversarial rhetoric. She concludes that though the 'conflict' and 'status' frames fluctuate in different time periods and among the newspapers sources studied, together they constitute the dominant lens through which the process and outcomes of the Brussels Dialogue are communicated by media in Kosovo. Furthermore, by drawing attention to the potentially destructive effects of the current form of reporting, this research brings to light the possibility and space for the reframing of Brussels Dialogue media coverage in a way that would nurture constructive outcomes. Nevertheless, Garaiova predicts that human, financial and political resources needed for such an endeavor will be hardly available in the foreseeable future.

## **Part IV – Social relations and the challenge of reconciliation**

Most research into international policy transfer, as part of post-war peace- and state-building processes, advocates the need to ensure 'local ownership' in order to improve chances for implementation and sustainable reform. Critics have pointed out, however, that both the conceptualization of this term and its operationalization, in practice, remain largely unclear, barely hiding continuous external structures of decision-making, power and routines as well as a lack of local authorship of these policies (Autesserre 2014, 102; Ejodus 2017; Reich 2006). From local perspectives, including in Kosovo (Schwandner-Sievers 2013), these might be perceived as 'neo-imperialist', an impression from which the choice of a policy rhetoric emphasizing 'local ownership' exactly aims to distract (Ejdus 2017). Indeed, external-interest-driven interventions, which have failed to pay sufficient differentiated attention to the details of domestic institutional and societal structures and popular opinion, have been linked to the development of 'stabilitocracies', i.e. local authoritarianism through the prioritization of security over democracy (BiEPAG 2017).

Whilst many analysts have warned of ‘culturalist’ approaches when analyzing causes of state failure (Capussela 2015), others have suggested that, in order to better understand the drivers and spoilers of any peace- and state-building process, a focus on local socio-cultural specificities and knowledge must be taken into account (e.g. Kostovicova 2012; Martin and Moser 2012; Visoka 2016). However, by the same token, third-party interventions that insulate local bureaucracies from domestic structures of patronage have been demonstrated as protecting institutional integrity, although this argument has only been applied to ‘hard’ governance reforms (here relating to the police forces in Kosovo, Skendaj 2014b). In methodological developments, albeit not without critique (Vrasti 2008), International Relations theorists have increasingly advocated the classic anthropological method of ethnography in order to gain a differentiated understanding of the specific societal and institutional realities which impact on developmental state- and peacebuilding projects (MacGinty and Richmond 2013; Millar 2014). How, then, can specific local realities be studied in a meaningful and differentiated way and, most importantly, without ‘culturalising’ local complexity and social change?

The contributions in Part IV shift the focus to policy approaches in the fields of education, culture and social issues which are usually subsumed under ‘soft modes of governance’ in the EU reform discourse (Vos 2017). Accordingly, the EU’s emphasis on ‘voluntarism, subsidiary, flexibility, participation, policy integration, and multi-level integration’ (Borrás and Jacobsson 2004, 189) throws the onus to facilitate and demonstrate progress in these fields on national governments (Vos 2017). Whether interrogating transitional justice processes (Hetemi), cultural heritage reform (Pasamitros), educational text book reform (Semic) or decentralized mediation methods outside the courts (Sadiku), the contributors in Part IV explore the interface between institutional reforms and local, societal perceptions and structures with a view on tracing the ways in which these factors impact on the post-war transition process towards interethnic reconciliation.

These four contributions share a focus on how the past informs the present in contemporary Kosovo. They also all, more or less explicitly, are straddling the divide between universalist and specific, local understandings of the selected topics discussed. Over most parts, their problem analyses disillusion any assumptions of successful institutional and governmental commitment to the reform process as this is experienced on the ground. Generally, they manage to avoid culturalism (when culture is used as explanation rather than seen as the outcome of political, economic and other processes, see Schwandner-Sievers 2003: 210-14; Kuper 2001, x-xi) through contextual analysis. And some of them even manage to identify local socio-cultural potentials which remain yet to be exploited for a potentially more sustainable development.

Atdhe Hetemi’s chapter, tracing the degree of institutional commitment to the transitional justice process in Kosovo, documents a standstill in effective implementation of existing, perfectly adequate, legal norms and frameworks. Consequently, it lays a considerable amount of responsibility for this stagnating process at the government’s door. However, since Hetemi conducted his mixed-method study in autumn 2016, governmental decision makers in Kosovo seem to have indeed, increasingly, engaged in supposedly reconciliatory initiatives and processes. Most prominently, incumbent president Hashim Thaçi made efforts to address Serb grievances, including a visit to the graves of Serb war victims in late 2016 and announcing the creation of a Truth and Reconciliation Commission for Kosovo in early 2017. Hetemi’s triangulation of institutional analysis with a comparative evaluation of population surveys and opinion polls



over time, not only highlights a consolidated loss of trust in the Kosovo government across the ethnically divided populace. It also almost predicts the variety of responses which Thaçi's subsequent initiatives provoked on the ground. These ranged from ridicule to offence and a general lack of conviction that his performances were anything but opportunist towards international demands (Morina 2016; Morina and Baliu 2017; Ristic et.al. 2016). Balancing external conditionality and the demands of the domestic electorate to provide reassurance, still sought in ethno-nationalist terms, has undermined this politician's credibility and status.

Narcisa Semić's chapter, an exploration of educational policy and historical text book analysis, sheds further light on the ways in which ethno-nationalism is a perpetuated social reality on the ground. Semić compares and contrasts educational policies of Belgrade and Prishtina which, respectively, assure the ongoing use of history text books that rely on incompatible, albeit mutually mimetic, types of antiquitas myths. She identifies specific ideological constructions and reproductions of irreconcilable Serb and Albanian claims to national space and territory. Her wider analysis points to both the political context of non-recognition and the emotional assurances inherent in nationalist claims to entitlement (cf. Skey 2011). She, thereby, suggests that political uncertainties might have to diminish first, before any change is likely to happen.

Nikolaos Pasamitros' chapter analyses cultural heritage policy in Kosovo and demonstrates the same, underpinning logic: governmental lists present a selective, ethno-nationally-informed selection of sites considered worthy of protection. This stands in contradiction to universally-informed ideals of celebrating human commonality and fostering reconciliation through cultural heritage protection and preservation. However, here the question also arises: can a population which has not experienced sufficient transitional justice for war crimes experienced in the name of ethnic difference – as alluded to in Hetemi's chapter – realistically be expected to prioritize the tangible and intangible heritage of a shared, interethnic or ethnically different past? Pasamitros' study stands out in the ways it identifies such possible potentials of shared cultural heritage when pointing to a history of long established interethnic and interfaith practices, which are part of Kosovo's intangible heritage, although yet to be celebrated and imbued with pride.

Finally, Mirjona Sadiku's chapter shifts our attention even more to existing, cultural potentials for peace-building on the ground in Kosovo. Within the framework of decentralization, including new legislation relating to mediation outside the courts, she explores the application of traditional methods of reconciliation outside Kosovo's central arenas of politics and intervention practices. On the one hand, her study contextualizes the nationalization of Albanian mediation rituals, historically and in relation to the period of state violence and parallelism in the 1990s. On the other, she manages to identify recent and contemporary, albeit rare, examples where traditional knowledge and principles of mediation have been applied cross-ethnically, albeit without much publicity. As an explanation, she points to inherent principles of mediation which can be found in the local ritual described just as in any universal principles of peace-building and which are, thus, applicable to any context. However, although 'third party neutrality' emerges as one of these principles, suggestive of a potential international role, it is particularly social trust and respect, in conjunction with deep local connectivity (as underpinning the last principle: guarantees of compliance with the agreement reached), which enable success at the micro-level, completely independent from international oversight and involvement.

These four contributions differ in their varied foci and emphases on either the institutional or the social side, on historicity, social and political positionalities of the actors involved or, in the cases of Sadiku and Pasamitros, on how a distinct cultural knowledge and experience might inform better outcomes. They align in that none of them suggests much 'success' of the reforms in the field of 'soft governance', particularly if measured according to the parameters formulated in UNSCR 1244, the Comprehensive Proposal for the Kosovo Status Settlement (known as the 'Ahtisaari Plan') and the Kosovo's 2008 constitution: namely, building a multi-ethnic society with equal democratic and human rights for all. Their findings remain complex and, overall, paint a picture of unsatisfactory progress. However, their insights also point to possibilities for developing better tailored, more contextually meaningful, and more sustainable paths to progress and development with some real capacity identified, on the ground and outside both the international and governmental gaze.

## **Part V – Security considerations: domestic and regional perspectives**

Eighteen years since the end of the war, the citizens of Kosovo continue to feel insecure and vulnerable. However, in what signals a change over time, they seem now to worry more about socio-economic issues than about the specter of renewed inter-ethnic hostilities. When Kosovo citizens were asked to point to any threats to their security by the 2016 Kosovo Security Barometer survey, 94 percent of respondents expressed concern about unemployment; 93 percent noted the problem of corruption; 90 percent registered their fear of organized crime; and 80 percent mentioned the threat of political instability. The North Kosovo question ranked fifth, still representing a fear of 72 percent of respondents (Kosovar Centre for Security Studies 2016, 16-19). While the prioritization of economic issues is usually a positive development that signifies a departure from the ethnic confrontation trap, the acute securitization of economic problems is frequently a fertile ground for the rise of extremism and nationalism, especially in the context of a post-conflict setting (del Castillo 2008; Tzifakis 2013).

The complex problems of Kosovo's state-building process and its precarious socio-economic conditions have also rendered the its people more preoccupied with the domestic rather than the external security environment. Nevertheless, when the participants to the above survey mentioned external threats to their security, they gave some very interesting responses: 66 percent cited the threat of ISIS; 62 percent expressed fear of a global economic crisis; and 61 percent referred to the spread of global epidemics. Serbia, as an external threat, ranked fourth accounting for the fear of 60 percent of respondents (Kosovar Centre for Security Studies 2016, 19-21). To the extent that the Kosovo-Serbia relations have at best stagnated and are susceptible to frequent crises (such as the train incident in early January 2017), it is the KFOR presence on the ground that explicates the relatively moderate fear of the Kosovo citizens of a Serbian aggression. Indeed, 43 percent of Kosovo citizens believe that KFOR should never depart from their country (Kosovar Centre for Security Studies 2016, 12).

However, none of the countries that have contributed forces to KFOR has ever agreed to dispatch its own people on the field indefinitely. In this respect, Giorgos Triantafyllou's chapter poses a very timely question: why has Kosovo not developed its own army yet? The author

argues that the current stalemate in the transformation of the Kosovo Security Force (KSF) into Kosovo Armed Forces (KAF) is the cumulative result of two factors. The first is the complexity of the issue, which touches upon a wide range of internal and external considerations, and the second is the government's difficulty to balance the high expectations of Kosovo Albanians and the firm objections of Kosovo Serbs. Triantafyllou explains in historical perspective the institution building in Kosovo's security sector – from the demilitarisation of the Kosovo Liberation Army (KLA) to the formation of the Kosovo Protection Corps and the establishment of the KSF – and he analyses the political, legal and international aspects of a possible transformation of KSF into KAF. More importantly, Triantafyllou discusses Pristina's available policy options for the completion of its security sector institution-building and he presents three different scenarios on how the Kosovo authorities could eventually proceed to establish their own armed forces.

In terms of security, the Kosovo question was never a purely local matter. And the fact that Kosovo citizens are predominantly preoccupied with domestic economic threats to their security does not imply that Kosovo's statehood has no external security dimensions. Indeed, when it comes to the normalization of relations in the Western Balkans, Bosnia and Herzegovina (whose foreign policy requires the consent of all three constituent peoples) appears to have adopted a tougher stance than Serbia itself towards Kosovo (Krajisnik 2016). In this context, Miroslava Kul'kova's chapter embarks in a study of Kosovo's statehood from a Regional Security Complex (RSC) perspective. Kul'kova argues that the Kosovo question is located at the epicenter of the Western Balkan RSC and assesses the contribution of the Brussels Dialogue to the normalization of the Belgrade-Pristina relations. The author notices that the EU-mediated dialogue has eased the resumption of relations and has had some concrete results for the everyday lives of people. However, the progress that has been registered so far in the Kosovo-Serbia relations falls short of the level of a general normalization and, thus, the Western Balkan RSC has not evolved from the stage of a security regime to that of a security community. Kul'kova ascribes responsibility for the lack of progress, in part, to the reluctance of both sides to make mutual concessions for the conflict resolution and, in part, to the existence of divergent views over Kosovo's statehood in the international community.

The division among the great powers about the question of the legality of Kosovo's independence reflects the international security aspect of the Kosovo question. It concerns the nature of great power relations (e.g. the question of multilateralism and of the possibility of taking action outside the United Nations framework) and the normative content of two fundamental principles of the contemporary international order: self-determination and sovereignty (Vidmar 2009; Muharremi 2008; Fabry 2012; Jolicoeur and Labarre 2014). In this debate, the most influential and pronounced opponent to Kosovo's self-declared independence is Russia (Deyermann 2016; Hughes 2013). Hence, Cosmin Ioniță's chapter, the last one in the volume, is an attempt to decode the Russian approach to the Kosovo question. Interestingly, Ioniță does not discuss the Russian policy as it is elaborated by Moscow, or as it is analyzed by Western observers. The author makes here a rare attempt to present how the Russian Kosovo policy is perceived by Pristina itself in order to figure out how bilateral relations among the two countries might improve. Ioniță follows the historical method of analysis and analyses Moscow's policy on Kosovo during three different chronological periods: from the war in 1999 until the 2004 riots, from the aftermaths of the riots until the declaration of independence in 2008, and lastly from the declaration of independence until today. The author observes a variation in the perception of Russian policy over time and across ethnic communities in Kosovo (i.e., among the Kosovo Al-



banians and the Kosovo Serbs) and he concludes with the suggestion that the improvement of the Moscow-Pristina relations would require more work at the grassroots level.

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## **PART I**

# **State-Building and the Challenges to Reform**





# **Hybrid Institutions? International Templates and Political Patronage in the Recruitment of Civil Servants in Kosovo**

**Katarina Tadić**

## **Introduction**

Since the end of NATO intervention in 1999, Kosovo has been subject of massive intervention from different actors who came with their own receipts. Specifically, the United Nations (UN), European Union (EU) with its different agencies, the Organisation for Security and Co-operation in Europe (OSCE), World Bank (WB) and a myriad of bilateral actors took over to fill in the institutional “empty shell” that Kosovo inherited from the war but also a decade of conflict and lack of formal governance. The involvement of various actors created loopholes of coordination, while the gradual delegation of main institution-building tasks to the local authorities created yet new challenges regarding coordination and direction which ultimately led to politicization of this massive state-building effort.

This paper analyses the evolution of institution-building efforts by tracing the goals and input of various actors with different visions throughout two crucial stages of Kosovo state-building process: 1) the reforms undertaken by the international community under the auspices of the UN Mission in Kosovo (UNMIK); and 2) assertion of local ownership which followed especially after the declaration of independence in 2008. We focus on progress of rules of recruitment in public administration as the locus of reforms of public administration and a crucial element of state-building. Specifically, we contrast between the internationally-led efforts to induce new rules of recruitment as part of their vision of building a professional and well-functioning administration immediately after the war; and the more locally-shaped initiatives, including the resistance to externally promoted rules that followed Kosovo's declaration of independence when most of the competences regarding recruitment were transferred to local authorities. The main question to be addressed in this project is: how have rules of recruitment advanced in the new state? What was the original vision of the international state-builders? How did it contrast and compete with local practices and domestic actors' interests in controlling state spoils? Finally, how have the new set of rules worked in the new environment where they were transplanted? The data is drawn from a review of existing literature including numerous reports from international and local organisations as well as primary sources, mostly interviews with key stakeholders - international and local. The interviews were conducted during October and November 2016 in Kosovo.

The argument proceeds in three sections. Section one outlines the literature on state-building and public administration reform, focusing in the disjuncture between external norms and local practices which marks experiences of massive international intervention such as Kosovo. Section two investigates the evolution of institutional framework regarding rules of recruitment as led by UNMIK, international structures and actors with a stake in the process. Section three explores the delegation of key competences to local authorities and revision of recruitment-related legislation as well as functioning of adopted procedures after 2008. The analysis suggests that the complex structure of international involvement created a lack of consensus and overlapping policy frameworks regarding public administration reforms, including new rules of recruitment. The gradual transfer of competences of recruitment to the newly emerging political elite and the mix of international and local competences in the process of recruitment, however, fostered existing legal and institutional inconsistencies, which exposed civil service to patronage and clientelist networks. The result, more often than not were hybrid rules that are formally aligned with international norms and standards, but, in reality, work to serve specific patronage networks, which proved active to capture the state.

## **International-led state building, diffusion of norms and processes of localization**

After the end of the Cold War the UN launched more than 60 missions in 24 countries. International involvement has gradually acquired two purposes "1) the reconstruction of the core structures and institutions of the Western, Weberian state (often denoted as 'state-building'); and, 2) support for the transition from war to peace ('peacebuilding')" (Heathershaw and Lam-

bach 2008, 272). In other words, the practice of international involvement shifted from peace-keeping to peacebuilding and state-building. In parallel, the concept of liberal peace became the dominant paradigm (Richmond 2009). It entails transposition of the Western liberal model of political and economic organisation where one of the central tasks was establishing an efficient and merit-based system of public administration.

Kosovo represents the most ambitious case of international rule where the UN for the first time took over responsibility of governing an emerging polity. The UNMIK assumed control on both levels, central and local, and performed almost every aspect of governance. A decade of repression and resistance, moreover, had left the country with an almost complete vacuum of functioning institutions in all spheres of governing. Thus, the international administration was confronted with the huge task of building the entire institutional setup that would prepare the path for democratic self-governance, which was expected to take ownership of these reforms in the process.

While this task itself was challenging, the state building efforts were further complicated by the number and complexity of international actors present in Kosovo. The UN presence was split into a multitude of agencies along with other international NGOs and foreign governments. Overlapping authorities accompanied by a lack of central coordination created many authority gaps along with ambiguous policy frameworks. Hence, efforts to build an efficient and depoliticised public administration, as the cornerstone of the future self-government, was hampered by the existence of many actors with different interests and sometimes even different views on the future of public administration.

Further, as some scholars already pointed out the efforts of peacebuilding and diffusion of international norms together with institution-building process are almost always marred by issues of legitimacy and local ownership (Jens 2008). Richmond and Jason (2008) for example show that peace- and related state-building efforts represent a contest even competition between local elites and international actors rather than a simple top-down approach of international authority. In other words, the diffusion of international norms more often than not depends on the social rifts, political cleavages and tensions that come with often-competing goals (Gross 2015).

This external-local dynamics was particularly significant in the context of Kosovo, where international state-building processes were intertwined with deep social and political rifts among various ethnic communities but also emerging sections of the political spectrum (Gezim and Richmond 2016). After the end of the war, Kosovo was deeply divided along ethnic lines, particularly Serb-Albanian relations. It was also subject of deep political divisions among the Kosovo elites, and whose origin dates back to the conflict period, often nourishing patronage and clientelist networks. Political parties hardly had any ideology and the loyalty to the party was centred around a few leaders who had their personal clienteles. Consequently, the public administration, particularly crucial positions in the civil service, were exposed to these networks of political influence and control. In the context of developing institutions, animosities among existing parties, along with unruly political segmented rooted in the war period, party patronage, rampant clientelism and “a clan-based culture of governance” (Gazim and Richmond 2016, 7) gained the upper hand.

Hence, ‘localisation’, similar to other cases of internationally-led reforms across the Balkans, reflects hybrid institutions formally shaped by international initiatives and informally determined

by local actors' strategies in controlling the new institutions (Elbasani and Sabic 2017). This interplay between external and internal actors and ultimately localization of external norms merged multiple actors involved in the external state-building process, overlapping frameworks and many legal gaps that leave room for political discretion. The latest became a dominant factor when Kosovar authorities took over more responsibilities after 2008, thus consolidating a hybrid system of internal rules and local patronage schemes, that ultimately worked to capture the state apparatus and use it as an instrument for personal or political gains.

## **Internationally-led state building and political discretion, 1999-2008**

The international community in Kosovo took over extensive authority to carry out state-building efforts while maintaining peace. The Security Council resolution 1244 tasked UNMIK with the mission to "carry out all aspects of civil administration, establish democratic institutions and create the basis for eventually resolving Kosovo's disputed political status" (UN Security Council Resolution 1244/1999, Annex 2, paragraph 5). With such comprehensive tasks, UNMIK became UN's most ambitious peace-building mission, directly involved in redesigning the entire institutional framework and corresponding rules and procedures for the functioning of Kosovo as a still disputed political entity.

Yet, the 'international community' had a polymorphous character, which was enshrined in the complex structure of the mission. The UNMIK as a lead authority was to guide and collaborate with numerous other institutions and organisations including the EU, the OSCE, the International Monetary Fund (IMF), the WB, various UN agencies and a military mission, KFOR. The main sponsors of this structure, the United States and the EU, moreover were divided on what UNMIK was to achieve. While the US had a predominant interest in maintaining stability and peace, the EU was more interested in a long-term state building (Capussela 2015, 35). This complex structure of international involvement inevitably led to conflicts over priorities, policy leadership and interdepartmental coordination, including over its vision on the future of public administration (Papadimitriou and Petrov 2013, 221).

Soon in 2001, the constitutional framework adopted by UNMIK laid down the very foundations for Provisional Institutions of Self-Government (PISG) while establishing PISG's principles and its role in the newly revised system of governance. It also established the major guidelines for the forthcoming civil service composed of all communities living in Kosovo and a merit-based system of recruitment. The following 2001 Civil Service Law (CSL), prepared by international experts and promulgated by the Special Representative of the Secretary General (SRSG), was the first direct legislation on civil service. The Law (UNMIK Regulation 2001/36) detailed down a set of core principles: a) equity, b) political neutrality and impartiality, c) integrity, d) honesty and accountability, e) transparency, f) merit, g) non-discrimination and h) inclusiveness. The law also introduced a position-based system of civil servants based on three-year contracts with the possibility of extension. As early as 2002, however, the international administration transferred crucial authority on management of public administration including key tasks of recruitment and promotion to democratically elected authorities (Skendaj 2014, 463).

Accordingly, the structure involved in the process of recruitment consisted of a mix of international and local institutions and competences. The Department of Civil Service Administration (DCSA), a department within the Ministry of Public Administration, was trusted with the central task “to develop and oversee the implementation of policies to achieve a multi-ethnic, non-partisan, professional, and accountable Civil Service” (UNDP 2005, 40). Institutions that had vacant posts were to recruit its own staff and provide relevant job description and classification for each post (SIGMA 2008). Only the recruitment of senior positions was to be centrally conducted by the Senior Public Appointment Committee (SPAC), an independent body inside the Office of the Prime Minister set up to appoint and dismiss senior civil servants. The composition of SPAC - the Prime Minister as chair, two ministers (one of whom was the Minister for Public Services), two ministers from non-Kosovo Albanian communities, three eminent inhabitants of Kosovo, and three international members - was to ensure depoliticisation of the process of selection. The eminent inhabitants and international members, moreover, were appointed by the SRSB (Hajredini 2013, 8). Next, an Independent Oversight Board (IOB), was to hear and decide on candidates’ appeals against authorities’ decisions, which could also serve to keep decisions on check. IOB included six members - three Kosovo Albanians, two representatives of other communities and one international expert - all appointed by the SRSB in consultation with the Prime Minister. This framework sent sound foundations for the recruitment of professional staff across the public administration, particularly key civil service positions.

## **Too many actors, too many laws**

Despite the reorganization of tasks and responsibilities, the working of the system exposed inconsistencies and loopholes mostly related to high number of actors involved, respective legal traditions and related initiatives (Table 1). Thus, even though legal system of Kosovo was continental, as derived from the Yugoslav system, legislation enacted by UNMIK was often drafted according to Common Law practice due to the great influence of Department for International Development (DFID) of the UK. The involvement of various actors, moreover, often resulted in a fragmented and inconsistent framework, which hampered adequate implementation. An illustrative example is CSL’s very definition of civil servants - staff of the central government, the Assembly, municipalities, schools, hospitals, police, courts, etc. which is contrary to the continental legal tradition. Similarly, the law also lacked information regarding specific requirements for becoming a civil servant, of categories or positions in the civil service. The failure to distinguish between civil servants and public employees in a broader sense made it “very difficult to effectively manage the civil service and to implement general and sectoral policies” (SIGMA, 2008, 3). The incoherence of the legislation, moreover, led to the need for new amendments and changes soon after adoption. Both the Administrative Directive 2003/02 and CSL, for example, lacked provisions for renewal of the three years contracts of civil service and consequently decisions were very arbitrary. As a result, already in 2005 the Government suggested the need to rewrite legislation, whereas in 2008 SIGMA stated that “unclear provisions further exposed civil service to politicisation and nepotism, without any credible safeguards” (SIGMA 2008, 7). However, no changes were introduced until the new legislation in 2010 was adopted.

Related legislation	Responsible institutions	Emerging Challenges
<ul style="list-style-type: none"> <li>○ Constitutional framework (2001)</li> <li>○ UNMIK Regulation of Civil Service (2001)</li> <li>○ UNMIK Regulation on Constitutional Framework for Provisional Self-government in Kosovo (2001)</li> <li>○ UNMIK Administrative Instruction (2003)</li> </ul>	<ul style="list-style-type: none"> <li>○ Ministry of Public Services (Department of Civil Service Administration)</li> <li>○ Senior Public Appointment Committee (SPAC)</li> <li>○ Independent Oversight Board</li> </ul>	<ul style="list-style-type: none"> <li>○ Decentralised system of recruitment</li> <li>○ Incoherent legal framework</li> <li>○ Broad definition of civil servants with no requirements for becoming a civil servant</li> <li>○ System based on three-year contracts</li> <li>○ No provision for a renewal of the contract</li> <li>○ Overlapping competences of IOB and DCSA</li> </ul>

The newly built institutions themselves, particularly IOB and DCSA, had more than a fair share of overlapping competences to the extent that each claimed “exclusive right to carry out inspection regarding the implementation of the civil service law” (UNDP, 2005, 45-46). Each moreover lacked capacities and necessary stuff to carry out such inspection or instruments to ensure that their decisions were indeed implemented. UNMIK’s suggestions to revise the role of IOB as an autonomous body reporting to the Assembly, however, raised red flags for its potential risk of politicisation and political interference, due to the experience with such boards in the region.

## Procedures that allow for political discretion

The incorporation of leaders and personnel of local power-holders in the provisional structure, even though based on electoral process and popular support that they enjoyed, effectively incorporated a number of informal structures and patron-client networks (Briscoe and Price 2011, 10). In 2005, Kosovo main political parties were described as “personality-driven patronage networks that buy or secure the loyalty of clients in various ways” (Khan 2005, 718-719). The civil service slowly but steadily became an area of political interference and control. Several loopholes provided the means to appoint political cronies across the administration, a process frequently noted also in other cases of internationally-led public administration reform (Elbasani 2009).

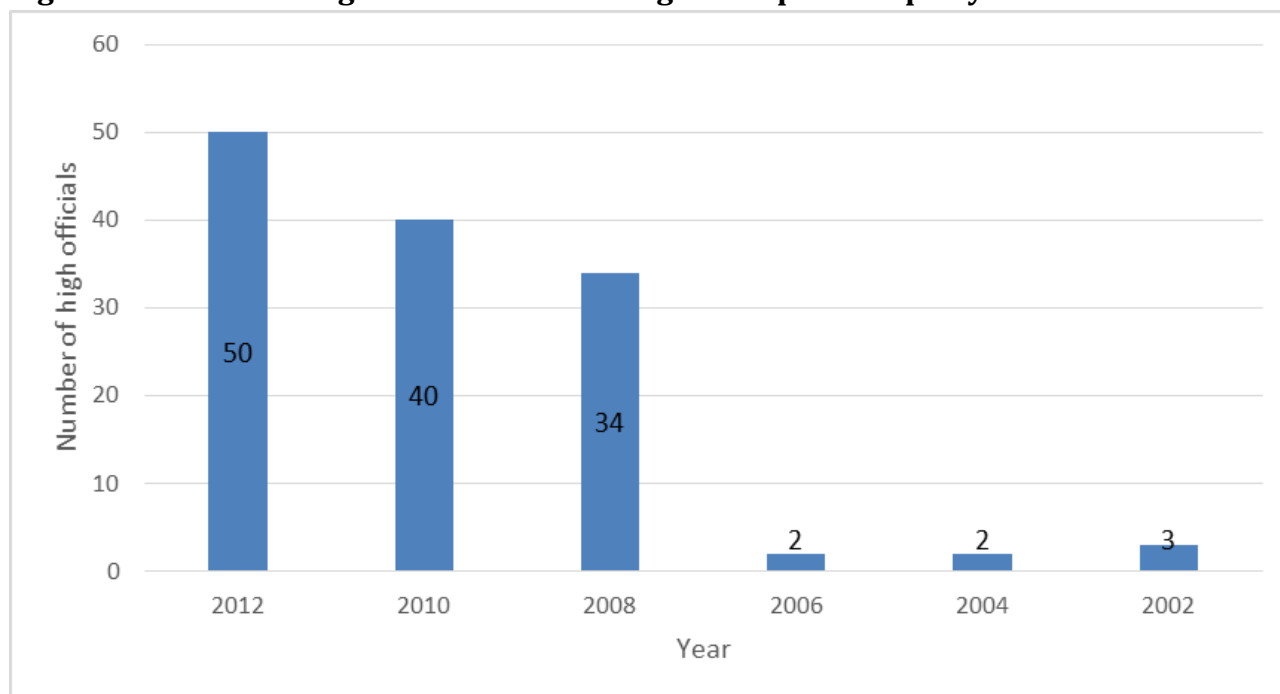
The first institutional gap that had lent itself to political exploitation was the procedures envisaging a three-year contract-based employment for civil servant, without providing further details regarding the conditions of the employment or the possibility of extension. Since there were no guidelines for extension of contracts, the issue was left at the discretion of the directors



of each institution. Since those directors were often political appointees, the existing procedures enabled ample political discretion and interference in the process of recruitment. Next, the decentralised system of recruitment allowed each institution, except of core senior central positions, to provide separate job description and recruit its own personnel. Not all the units, however, had sufficiently qualified staff to conduct the procedures. The lack of a centralised system of job qualifications, categories and payments allowed separate institutions to invent positions and determine 'suitable' salary levels for the candidates (Doli et.al. 2012, 680). Since the DCSA in the Ministry of Public Service lacked capacities to ensure homogenous application of the Law, recruitment was *de facto* abandoned to the discretion of each institution.

Only the process of senior management appointments - permanent secretaries of the ministries, chief executives and other post determined by the SMSG - was carried out centrally through the panel, which reviewed the applications. The panel consisted of the Permanent Secretary of the Ministry of Public Services; the permanent secretary of the ministry, under which the candidate for appointment was to serve; one Kosovo inhabitant; and one international member of the SPAC. The panel would suggest three candidates and then the minister would have a final say. Initially, SPAC proved useful to hire qualified individuals in top positions. Yet, the institution ran into problems when the mandate of international members expired in the period prior to declaration of independence. Although the door was opened for 'nationalisation' of SPAC, it did not happen due to the lack of appropriate legislation. As a result, in 2009 the SPAC did not meet at all. The appointment of politicized candidates intensified exactly during those periods when SPAC had difficulties to meet. Kosovo Centre for Investigative Journalism shows that in 2007 only five high public officials belonged to political parties but in 2008 their number had increased to thirty-four and it continued to grow in the following years (Besnik and Kalaja 2014), as the *figure 1* below shows. The governing authorities seemingly benefited from the lack of SPAC functioning in order to infiltrate their pals in the system. The 2007 shift of power from Democratic League of Kosovo (LDK) to Democratic Party of Kosovo (PDK) seemingly increased the pace of politicization. In 2010 SPAC had become obsolete by the new Law on Civil Service that established the Council on Senior Appointments.

**Figure 1: Number of high officials who belonged to a political party**



Source: Employment party – Physiognomy of Political Patronage in Kosovo, Preportr

## **Post-independence and prevailing political patronage**

In February 2008, after several rounds of unsuccessful negotiating with Serbia, Kosovo declared unilaterally independence. It became yet another crucial stage for re-envisioning the legal initiatives regarding the creation of a professional public administration. Some of the new initiatives were again determined by the international community deeply involved in safeguarding some of the principles of the new polity. However, the declaration of independence strengthened both the authority delegated to local authorities and their determination in taking charge of the sovereign state. This new mix between diluted foreign guidance and strengthened local 'ownership' showed also in the evolution of the initiatives, features, and working of the state administration.

The Ahtisaari's Comprehensive Proposal for Kosovo's Status Settlement (Ahtisaari's plan) - an attempt to settle Kosovo's governance problems, its differences with Serbia and the question of the Serbian minority - became a blueprint of independence (Capussela, 104). Due to the perceived fragility and insufficiency of the local institutions, moreover, the international community embraced the idea of international supervision of independence, a move intended to avoid disruption, but also system's "fall under the tight control of the (Kosovo) elite" (Capussela, 93). To achieve its new goals, the international presence was again split into two missions – International Civilian Office (ICO) and European Union Rule of Law Mission (EULEX). The first oversaw the implementation of the Ahtisaari's plan, while the second aimed to assist Kosovo authorities

in the rule of law area, specifically in the areas of police, judiciary and customs. The ICO came to an end in 2012, while EULEX continued its work although with more limited competences, partly due to the perceived failure to tackle corruption and organised crime.

The new independence, at the same time, landed ownership to elected authorities, which were to carry out major tasks of governance. Prior and soon after the declaration of independence, Kosovo adopted an impressive number of laws necessary to take forwards on-going processes of state-building. Ahtisaari's plan had already laid out a detailed plan for adoption of about forty-one laws, which were focused on transferring responsibilities from international to local bodies and creation of new structures to enable governance. The load of new laws, however, was to be a big burden for the new authorities: "the large number of laws, although impressive for the volume of work accomplished, raises some concern, as rushing to adopt laws without a proper discussion, consultation and co-ordination process has meant neglecting in some cases the quality and "hidden" consequences of those laws" (SIGMA 2008). This was particularly the case with the evolving regulations regarding management of public administration (table 2).

Related legislation	Responsible institutions	Challenges
<ul style="list-style-type: none"> <li>○ Public Administration Reform (PAR) Strategy with the Action Plan (2007)</li> <li>○ The Law on Civil Service (2010)</li> <li>○ The Law on the Salaries of Civil Servants (2010)</li> <li>○ The Law on Independent Oversight Board (2010)</li> <li>○ Regulation on Senior Management Positions in the Civil Service (2012)</li> <li>○ Revised PAR 2010-2013</li> <li>○ PAR Roadmap 2014</li> <li>○ PAR Strategy 2015-2020</li> </ul>	<ul style="list-style-type: none"> <li>○ Ministry of Public Administration</li> <li>○ Government</li> <li>○ Independent Oversight Board</li> <li>○ Council for Senior Appointments</li> <li>○ Assessment commission (as an ad hoc body) inside the Ministry of Public Administration.</li> </ul>	<ul style="list-style-type: none"> <li>○ Narrower scope of the civil service</li> <li>○ Lack of capacities of local institutions</li> <li>○ World Bank, UNDP, DFID, SIDA and EU have been involved in various aspects of public administration reform</li> <li>○ Inadequate co-ordination between experts and donors</li> <li>○ Work of the Board overlaps with the competences of the MPA</li> <li>○ Enabled ample space for political interference at various levels of recruitment.</li> <li>○ Permanent secretaries as a tool for replicating the political influence throughout the service</li> <li>○ The effectiveness of the Board and political influence over the appointment of its members</li> <li>○ Independent agencies and their related incoherent legislation</li> </ul>

## Transfer of power and overwhelming tasks

The Strategy for Public Administration reform adopted in 2007 together with the Action Plan envisaged a comprehensive reform of civil service along the lines of “a depoliticized and professional public administration, based on the best European policies and practices” (Doli et al. 2012, 680). Secondary legislation, based on a review of the public administration conducted by DFID followed in the period 2007-10.<sup>1</sup> In 2010, Kosovo authorities adopted two crucial laws – Law on Civil Service and Law on the Salaries of Civil Servants, both aiming to create a stable, unified, efficient and professional civil service. The new Laws, which entered into force in 2012, narrowed down the previously broad scope of definition of civil servants. According to the new definition only employees of the administration of the Assembly, the Office of the President, the Office of the Prime Minister, ministries, executive agencies, independent and regulatory agencies and municipal administrations qualified as civil servants (Law on Civil Service 2012). Additionally, the new Law introduced a career-based system, which re-emphasized basic principles of recruitment in the civil service - merit, professional capacity, impartiality, equal opportunities, non-discrimination and equal representation, and public competition. The Ministry of Public Administration, according to the Civil Service Law, is responsible for supervision of the implementation of the civil service legislation. The Law on Independent Oversight Board (IOB) adopted also in 2010 was to adjudicate civil servants’ complains and monitor the implementation of civil service legislation. The Board has the authority to review every issue related to the appointment, dismissal, promotion and disciplinary procedure undertaken by employing authorities and to take final decisions, which can be appealed only to the Supreme Court of Kosovo. Differently from its previous depoliticised structure, the IOB now reports to the Parliament which also elects its seven members, while ensuring that at least two must come from non-Albanian community and at least two shall be women (Law on Independent Oversight Board 2010).

Senior Public Appointments Committee was also replaced with the Council for Senior Appointments that is now responsible for appointment of senior management positions - general secretary of the Office of Prime Minister, the general secretaries of ministries, and chief executives and equivalent positions in executive, independent and regulatory agencies. The new entity operates inside the Ministry of Public Administration and is regulated by the secondary legislation (Regulation on Senior Management Positions in the Civil Service 2010).

With such a load of devising new institutions, redistributing competences and taking over leadership of the process, political structures faced truly mounting tasks. As SIGMA repeatedly reported, these challenges, when coupled with a general lack of capacities, hampered any sense of ownership that was supposedly the target of the changes (SIGMA 2008, 1). The lack of the qualified staff across state institutions also required on-going substantial assistance from withdrawing international donors and experts from World Bank, UN Development Programme (UNDP), DFID, Swedish International Development Cooperation Agency (SIDA) and the EU. The new challenges as well as the continuous involvement of international community created yet new loops of coordination, this time between different donors and the government authorities.<sup>2</sup> In 2008, SIGMA noted “inadequate co-ordination between experts and donors and weak capacities of local institutions and the local administration to oppose the international com-

munity and present their own solutions adapted to their own legal traditions” (SIGMA 2008, 1). Moreover, SIGMA said that the international community has not co-ordinated the technical assistance offered to Kosovo and sometimes duplications and contradictory recommendations have been observed. In 2011, SIGMA still highlighted dependence on international assistance – both expertise and funds - as one of the main characteristics of Kosovo civil service system (SIGMA 2011, 11).

International dependency and general lack of coordination has strongly impacted the evolution of the legal solutions to civil service. The draft Law on Civil Service, for example, contained more than 200 amendments, or two amendments per article, from different stakeholders, which had a direct bearing on the level of consistency (SIGMA 2010, 6-7). The Law on Independent Oversight Board advocated by some donors became a copy of the previous legislation transposed from another legal systems, which was largely unfit for Kosovo’s a legal framework (SIGMA 2011, 9). Already in 2005, the UNDP had reported that the experience with such boards in the region warned against placing the IOB under the Parliament (UNDP, 2005, 46), which was exactly what the Law did in 2010. Moreover, similarly to the previous problems it was supposed to correct, the Board competences overlapped with the competences of the MPA while the capacities of both institutions to exercise oversight over public administration remained limited (SIGMA, 2011, 9).

Still, the more challenging part was a delay of adoption of secondary legislation, necessary to implement the new laws. As a consequence, four years after the declaration of independence, Kosovo was the only Western Balkan country that did not have a fully functioning civil service law and thus resorted to apply the previous UNMIK legislation (Meyer-Sahling 2012, 22). Yet, a new Strategy for Public Administration Reform adopted in 2015 ensured high-level political support and commitment to the issue. The Stabilisation and Association Agreement which entered into force in April 2016, placed good governance and the rule of law, competitiveness and investment climate, and employment and education, among medium and long term priorities required to advance the European Reform Agenda through the SAA. The EU has now taken over a key role in influencing the PAR and setting it line with the SIGMA principles.<sup>3</sup>

## **Deepening political intervention in the process of recruitment**

Indeed, most of the legal changes did little to curtail the trend of increased political control over recruitment in key positions of state apparatus. By 2012 Sigma drew attention to political interference in recruitment of senior posts (SIGMA 2012, 8) while in its comparative findings, it ranked Kosovo’s recruitment system as “the least capable of bringing about merit-based recruitment outcomes” (Meyer-Sahling 2012, 33). Namely, “the main challenge remains political interference in selecting process for vacant position, but even worse when it comes to promotion in managerial positions. It is almost impossible to get a managerial position in any of the ministries if you are not related to the political parties in position”.<sup>4</sup>

Indeed, political actors’ involvement in determining the new rules and revising related legislation enabled further space for political discretion at various levels of recruitment. The 2010 Civil Service Law soon became a tool for ruling parties to scrutinize and effectively control ca-

reer positions. Under the Law, Kosovo embraced a decentralized process of recruitment with personnel units within each institution authorised by the Department for Civil Service, becoming responsible for the recruitment of civil servants. The law, however, requires approval by the Government (ministers) for every career position in the civil service, which gives political authorities formal discretionary power to determine who gets the job (Doli et al. 2012, 680). The recruitment for senior management positions is again subject of special regulations. The Ministry of Public Administration is responsible for establishing the Criteria Assessment Commission composed of three general secretaries (usually political appointees), one university professor and one civil society representative for each vacant position. The list of proposed candidates are still submitted to the minister who decides the ultimate winner, which is then appointed by the Government, for a three-year term. The Government is also entitled to supervise the implementation of policies regarding senior management appointments through the Council on Senior Management Positions. Given that the Council is a political entity composed of the deputy prime minister, chairman; minister responsible for public administration, deputy chairman; the minister responsible for finance, member; one ministers from the communities, member; and three (3) other members from among the ranks of general secretaries or equivalent position appointed by Prime Minister, the Government has effective control over the appointment of senior management staff. Hence, general secretaries, as the highest-ranking positions in Kosovo civil administration, exposed to this process of politicization, serve as a tool of political control rather than a mechanism of insulation from political influence throughout the service.

The Independent Oversight Board is an institution with the role to serve as an appeal mechanism for civil servants by 1) reviewing appeals filed by civil servants 2) determining whether the appointments are made in accordance with rules and 3) supervising implementation of legislation related to Civil Service often serves as another tool of politicization. Specifically, the political appointment of its members by the parliament enables political control over its decisions. An *ad hoc* committee of the Assembly of Kosovo is responsible for appointment of Board's members, but the Law does not prescribe its composition leaving it to the will of the parties who have the majority in the parliament. Furthermore, the requirements necessary to be appointed as a member of a Board do not exclude party members, who can thus easily be infiltrated in the process. Indeed, the very chairperson of the Board is a former LDK member.<sup>5</sup> Besides the possible politicization of its members, the Board does not have real instruments to ensure the implementation of its decisions, apart from notifying the Prime Minister and the Assembly on decisions that have not been executed. As a result in 2015 16 percent of Board's decisions were not executed (Annual Working Report of the Independent Oversight Board 2015).

The recruitment of personnel across independent agencies – currently more than 100 – is also vulnerable to politicization given the challenge of incoherent legislation. Since most of those agencies are regulated by separate laws, there is no way to ensure that these laws do not collide with the provisions Civil Service Law regarding appointments of the personnel,<sup>6</sup> which typically are not transparent. The Kosovo Agency for Forensic, for instance, does not follow the rules of recruitment determined by Civil Service Law. Instead, it is the Minister of Defense that has the authority to set a commission for the selection of the head of the agency as well as to choose among the candidates (Law on Kosovo Agency on Forensic). Another example is the Privatization Agency, whose functioning is regulated by a separate law first adopted in 2011, and then amended in 2015. In the first version of the Law, its eight-member board of directors consisted



of five appointees of the Assembly and three internationals appointed by the ICR. According to the current Law, the board of the agency is to be appointed by the Assembly, and proposed by the Government. Similarly, the Independent Commission for Mines and Minerals, which regulates mining activities in Kosovo, has been established with the Law on Mines and Minerals stipulating that the ICMM will be directed by a five-member board, selected by an *ad hoc* committee as decided by the Government. Although the law states that the process of selection will be based on objective criteria and adequate professional qualification, it fails to stipulate a detailed procedure. Namely, for each position on the ICMM Board, the *ad hoc* committee shall select at least two of the most qualified candidates and forward their names to the Government, which then forwards the names to the Assembly. The Assembly can either appoint one of the candidates or reject all forwarded candidates. Bearing in mind that the Government sets the *ad hoc* commission, regulates the condition of the selection procedure and has a majority in the Parliament, the selection of the members is under the tight control of the ruling parties.

## **Prevailing patronage and state capture?**

While many of the root causes of politicization of recruitment in civil service go back to uncoordinated international initiatives, the many loopholes they introduced in the system, the load of institutional restructuring and weak local capacities to take over the main tasks of governance, they can hardly explain the deep politicization of the public administration that turned administration into an instrument of control of rent and spoils of the state (Besnik and Kalaja 2014). By 2013, political patronage and nepotism across the state administration had become so widespread that Kosovo qualified as a ‘captured state’ or a case of excessive exploitation of public resources by the ruling elite (*Ibid.*).

As an entity depleted by on-going conflict and extensive periods of weak formal governance, Kosovo prior to independence was described as the worst governed society in the Balkans (Capussela 2015, 12). Corruption and organised crime enjoyed systematic impunity. The discrepancies of new institutional regulations certainly provided crucial opportunities for clientelist networks to ‘privatize’ the state and use it as a piece of property to be distributed among their followers (Gashi and Emerson 2013, 31-32). Kosovo political landscape was itself deeply divided by animosities that go back to the 1998-1999 war among the three main parties, Democratic League of Kosovo (LDK), Democratic Party of Kosovo (PDK) and Alliance for the Future of Kosovo (AAK). While the latter two derived from the Kosovo Liberation Army (KLA), LDK represented the spirit of the peaceful resistance movement in the 1990s. Given that none of the parties have clearly distinct ideologies and programs, the main motive for joining a party in post-war Kosovo seemed to be control over the spoils of power (KIPRED 2012, 11). Given that some of crucial segments of the KLA reorganized themselves into parties, entered the parliament and/or the governing system, they brought some of the unruly segments of war and tight clientelist networks in the midst of emerging local politics (Capussela 2015, 49).

This became immediately relevant in the capturing of administration by particular political interests, especially once the local leaders enjoyed enough authority to change the rules of the game. In 2008, International Crisis Group noted: “progress made in the last three years toward



consolidating the civil service is being undone. Partisans of the PDK are replacing technocrats and the previous government's political appointees at the helm of public institutions and companies" (ICG 2008, 20). A 2013 study on the perception of the patronage in Kosovo showed that a large majority of respondents believed that politically-based appointments are a widespread phenomenon across all institutions (Gashi and Emerson 2013, 33). The 2015 Baseline Measurement Report showed that Kosovo faced serious challenges in establishing a professional administration in conformity with broad EU values and requirements. The report also suggested that besides direct or indirect political influence of senior positions, the problem lied with the political misuse of existing procedures (SIGMA 2015, 47-49). The resort of political elite to overplay the established rules of civil service eroded any sense of independence and effectiveness of state administration, reducing it to politicised staff with little experience and merit.

In 2014 Kosovo Centre for Investigative Journalism – Preportr – provided rich empirical data on the extent of political capture of public institutions. The report *Employment Party: Physiognomy of Political Patronage in Kosovo* identified at least nine permanent secretaries with clear political background. Out of other 249 public officials with clear partisan connections, 117 worked in ministries, 65 were directors, 9 chiefs of staff, and a few held even positions of head inspectors and internal auditors. The explosion of Pronto and Pronto 2 affairs – leaked phone recordings between PDK highest officials collected by EULEX in 2014 and 2016 respectively provided telling information on how PDK officials cooked most political appointments to key positions of the state hierarchy. The following protests encouraged the Government to promise that the British Embassy will finance an independent company to regulate recruitment for senior staff. This *ad hoc* and in the long term unsustainable solution again provided from the outside can only delay the widespread and structural problems of Kosovo's politically captured public administration system.

## Conclusions

Post-war Kosovo became subject of probably the most ambitious state-building efforts even taken by the international community. This internationally-led state-building enterprise was mainly concentrated in establishing functional institutions of governance, and instilling principles of merit and competency across the administrative machinery of the state. The chapter explored whether and how the internationals' vision has materialized by focusing on evolution of rules of recruitment in civil service. Our analysis demonstrates that internationals' vision of building a professional civil service colluded with the reality of a poorly coordinated international presence, which included different actors with different plans over the course of reform; and local patronage schemes that had yet other ideas over the nature and functioning of state institutions. Hence, contrary to the initial vision of the international state-builders, the recruitment across the state administration slowly but steadily became a tool of political control, pointing at the gap between state-building ideals and messy coordination of international structures on the ground; international templates and local practices; and formal rules of restructuring the public administration and informal mechanisms of state capture.

The interplay, but also the nature of the international involvement and local players had a bear-

ing on the evolution of public administration reform as assessed through the recruitment procedures. Although the international administration was responsible for governing the Kosovar polity and enjoyed ample governing competences especially in the period 1999-2007, the multitude of involved structures which moreover had different visions on the direction of reform shaped a loose structure of authority, coordination and adopted legal initiatives.. As a consequence, landing ownership to local power-holders was hindered by mounting tasks, overlapping strategies and ambiguous policy agendas, thus creating legal and institutional loopholes in the system. At the local level, political grouping derived from the war and based on regional and clan loyalties had their own understanding of state reform and employed various informal strategies to capture the state

As the analysis shows, the introduction of local self-governance after 2000 involved a complex mix of international and local competences, which hollowed any sense of authority and coordination. The legal framework on civil service system as designed and introduced by the international administration, incorporated various inconsistencies and overlaps which exposed civil service to political influence. The gradual process of landing ownership to the local elite, moreover, brought in the system local clientelist networks and groups, which effectively exploited the existing loopholes to subverting establishes procedures of recruitments. The declaration of independence and a more decisive transfer of authority from international to local administration only furthered the gap between external templates of a professional administration and local actors' exploitation of the state administration for political and personal goals. The rules and procedures related to recruitment were redesigned or simply twisted to infiltrate political cronies and effectively control the civil service. Such hybrid and captured institutions, perhaps unsurprisingly, breed corruption. The chain of factors that contributed to the politicisation of public administration, thus, owns to both the organization of the international administration and prevailing local patronage networks. Indeed, the authority gaps and a lack of policy coordination certainly played its part in creating sufficient spaces for political influence. However, it was the delegation of authority to local authorities that empowered well-organised party patronage networks to take control over the state administration. The result was extreme politicization of public administration that hampers the very functioning of the state.

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## **List of interviews**

Dren Doli, Interview with the author, 17 October 2016, Prishtina  
Shemb Manaj, Interview with the author, 17 October 2016, Prishtina  
Rahman Zahiti, Interview with the author, 18 October 2016, Prishtina  
Artan Collaku, Interview with the author, 18 October 2016, Prishtina  
Erna Hasangjekaj, Interview with the author, 20 October 2016, Prishtina  
Martin Cunningham, Interview with the author, 21 October 2016, Prishtina  
Shqipe Pantina, e-mail correspondence with the author, 30 October 20016

### **(Endnotes)**

- 1 Author's interview with Artan Collaku, 18 October 2016, Prishtina
- 2 Author's interview with Rahman Zahiti, 18 October 2016, Prishtina
- 3 Author's interview with Artan Collaku, 18 October 2016, Prishtina
- 4 Author's email correspondence with Shqipe Pantina, 30 October 2016
- 5 Author's interview with Shemb Manaj, 17 October 2016, Prishtina
- 6 Author's interview with Rahman Zahiti, 18 October 2016, Prishtina





# **Privatization or Patronage: Assessment of Difficulties in Kosovo's Privatization Process**

**Dita Dobranja**

## **Introduction**

Due to the distinctive characteristics of Kosovo during the privatization process, most-frequently used benchmarks for evaluating privatization's success or failure are likely to yield unsatisfactory or biased results. Specifically, assessing whether privatization in Kosovo was successful, is only right when considering the background and the circumstances under which it started. These circumstances, which are elaborated further in the paper, ranging from the questionability of the responsible institutions, to the doubtful economic evaluation of the enterprises being privatized, made the process and its evaluation problematic. Given the inconclusive debates on what a successful privatization consists of, this paper aims to first outline a set of benchmarks for assessing what qualifies as successful privatization, and second, employ these criteria to explore the specifics of privatization process in the case of Kosovo. The time line covers roughly a decade, from the beginning of privatization in early 2000s to 2010 when most privatization cases occurred. The benchmarks developed for assessing the privatization process in Kosovo are a combination of theoretical assessment and circumstantial consideration, crucial to understanding the overall process in Kosovo and assess it correctly.

The shift of economic systems in the 1980s, from socialist to market economies was characterized by major privatization processes around the world. However, different from western economies, post-communist and post-socialist states underwent a wholesale privatization process, which was related to large-scale processes of economic and political transformation. The underlying process of regime change and sometimes state-dissolution included both a shift from state-controlled economy into a market economy, from one party-state into democracy and from federal organizations to separate political entities. Moreover, most, if not all, these economies have still to achieve full democracy and established market economies. In the context of such large-scale transformation, the main aim of the privatization process was to improve state-owned companies' performance (Estrin 2007). The most commonly employed theoretical argument is that privatization serves as an incentive to improve performance of the companies, due to their financial responsibilities. Numerous studies, which have studied privatization in transitioning economies, have found that privatized firms show superior performance in a number of criteria, including labor productivity, overall performance, investment, as well as innovation (Ostojic and Scott 1996).

The expectation of privatization is that privately run firms focus exclusively on profit maximization as their objective, different from state-owned enterprises that set out to fulfill other goals, which oftentimes are political and not economic in nature. Indeed across former socialist countries, state owned enterprises commonly served as tools of the ideologically-devised economic system and state politics, rather than as tools for economic development. In Kosovo too, state owned enterprises served as tools of politics. Such cases included instances where centralized government ownership of enterprises enabled the state to keep unemployment low, by overemploying the labor force in state enterprises, even when it was not efficient. Whereas privatization, was supposed to insulate companies from political goals and ideological state control by introducing a pure market-oriented logic of operation, the way most privatizations were done and evolved have hardly worked as intended. This article will look at the gap between expectation of privatization to insulate efficiency from ideological or political connections and the lack of success of the privatization process to deliver this in practice.

Theoretically as Golstein and Glutenik argue, the goals of privatization are "change the control of the factors of production in order to increase output and reallocate resources across assets to maximize the value of the output" (Goldstein and Glutenik 1998). The first goal is achieved in the labor markets through improved efficiency of the labor force through the privatization process; whereas the second one occurs in the capital markets through resource allocation across assets based on market pricing. The division between labor and capital markets here is crucially important, given that many post-communist economies have embarked on their privatization transformation without having functioning or existing capital markets, nor functioning labor markets. This lack of functioning markets, usually taken for granted, introduces a crucial distinction between theoretical expectations of privatization and functioning of privatization in practice across developing economies where capital markets are neither guaranteed, nor fully functional. While in developed countries privatization was a process, which was preceded by a functioning market, full valuation of state-owned enterprises, political responsibility, as well as ideological debates, this has not been the case in developing economies. Privatization process for transitioning economies, as seen by its proponents, was a necessary tool to create a functioning democratic political system, by declining or completely removing the monopoly that states have over economic and



political basis (Brada 1996). These conditions and expectations provide a heavy burden on the privatization process, giving a more all-encompassing basis for evaluation of the success of the privatization process, one that is not only economic.

The question of whether privatization in Kosovo has been successful will be tested through the following hypothesis: the privatization process in Kosovo can be considered successful if it fulfills both benchmark criteria that developed and used in this paper. The criteria used to evaluate the process in Kosovo, are the following: (1) correct valuation of the enterprises that are privatized and (2) whether the enterprises reached their potential after privatization, rather than being re-destined or re-purposed. A successful privatization, thus, will be one that shows that the enterprise was correctly valued and privatized at its rightful value, and has not been re-purposed, but rather has reached its productivity potential after being privatized.

The paper is organized into four sections. Section one maps the criteria of evaluation of privatization process, as an intersection of theoretical and practical assessment criteria. In this section, the paper also looks into the implications of the uncertainty around Kosovo's statehood, looking closely at actors involved in the process and their competencies and how this impacted the privatization process. Section three analyzes the economic conditionality of the privatization process in Kosovo, specifically the two evaluating criteria, the valuation of the SOE's and the potentiality of revitalizing their economic potential, while also providing an evaluation of the privatization through criteria used generally in privatization analysis. Section four looks into the specific case studies in Kosovo, ones that pass the two specific criteria set forth by this paper. Section five is the summary and conclusion of the analysis provided in the paper.

## **Methodology**

To be able to test the hypothesis of the paper, both quantitative and qualitative data have been necessary, thus the research is conducted through mixed methods. Considering the nature of the question, the data collection for this paper has been done in the triangulation model, giving both quantitative and qualitative data equal importance and collecting them simultaneously. Review and analysis of theoretical literature was used to establish the benchmark of the analysis, followed by analysis of articles, reports, and analysis specific to the case study. Desk research also yielded basis for design of field interviews, which, considering the sensitivity of the research, largely yielded context into research more than fresh findings. Survey data from Riinvest Institute was used to construct a basis for evaluation of the privatization process through general criteria.

## **Privatization without Functioning Capital Markets**

### **Benchmarks of successful privatization**

In many former Soviet Union countries, as well as other eastern European economies, there has been resistance to privatization – some of the resistance has been ideological, however there has also been resistance to privatization in the circumstances, rather than privatization process per se.<sup>1</sup> The reluctance that many countries – be it specialists, segments of the political spectrum and voters – displayed towards privatization was not always unfounded, given the general feeling that privatization process failed to deliver. According to World Bank, in developing countries, pri-

vatization has served as a tool to increasing productivity of Socially Owned Enterprises (SOE's) – which on average have a productivity up to three times lower than private firms; accessing investment capital; and reduce the burden to the state of firms operating at a loss (Kikeri and Kolo 2005). These objectives have been very difficult to achieve in most post-communist countries. As the Polish Minister for Ownership Changes, Lewandowski, put it at the very beginning of the process 1991 “Privatization is the sale of enterprises that no one owns and whose value no one knows, to buyers who have no money” (Savas 1992). Hence, apart from the inherent productivity issues that all SOEs face, in transition country they have additional problems with ownership, valuation, and selection of would be investors. A common problem between theoretical expectations of privatization and how it evolves in practice, then derives from the fact that the theoretical model assumes that full property rights are in place, and there no contest over ownership of the state owned enterprises. This is rarely true in the context of collectively-owned state properties – which was the system in Yugoslavia, where employees were given managerial rights. When privatization process in Kosovo commenced, a mere 20 percent of the earnings from privatization of enterprises were foreseen for the workers (Kosovo Trust Agency 2004). The complex distribution of rights and contestation of those rights in practice makes privatization a rarely neat or easy to assess process when considering its initial goal of being the basis for a market economy through improved efficiency of the SOEs.

Such complex issues often relate to the bigger question of 1) functional framework for carrying out privatization; and 2) specific measurements tools to evaluate the process. Specifically, privatization shifts means of production and pricing from the state to private owners – a process that requires many systematic steps to be taken for the privatization process to be successful (Goldstein and Glutenik 1998). Most of these steps, include a functioning legal framework, establishment of financial and governmental institutions, creation of investment banks, and development of accounting procedures. Not only are those steps necessary to jump start privatization procedure but they are also crucial to defining property rights. In many transitioning economies, however, both the framework and the rights they assume were at best complex and at worst contested. In the specific case of Kosovo, both the broad framework and the measurements of success, which are taken for granted in theory, were lacking at the start of the privatization. Indeed, they had to be redefined throughout the process.

### **Privatization in the context of incomplete statehood**

The privatization process in Kosovo was taking place in a context of post-socialist and post-conflict country, which moreover suffered from the problem of the uncertain statehood status. In June 1999, United Nations Security Council Resolution 1244 mandated the Secretary General to “establish interim civil presence in Kosovo under which the people of Kosovo can enjoy substantial autonomy within the Federal Republic of Yugoslavia and which will provide transitional administration while establishing and overseeing the development of provisional democratic self-governing institutions” (United Nations Security Council Resolution 1244) Rather than establish a firm basis for state-building, however, UNSCR 1244 aimed at ending the open conflict, and left the issue of status to be resolved later. Many of the provisions of the UNSCR 1244 served as the blueprint for Kosovo's statehood, but that was still subject of ongoing political contestation and negotiations, involving International, Kosovo, and Serb authorities.

The UN Mission in Kosovo (UNMIK) was mandated from the UN Security Council as an “interim civil presence in Kosovo” (United Nations Security Council Resolution 1244) which will give the people of Kosovo considerable autonomy within Yugoslavia and serve as a transitioning administration. UNMIK operated on a three-tier plan of transition. During the first phase UNMIK would be in charge of building and governing the emerging Kosovo polity, while transferring managerial responsibilities to Kosovo institutions towards the end of this phase. The second phase would entail elections, which were to establish local self-governing structures. The third and final phase would consist of full transfer of responsibilities to the new institutions, which were however still unclear whether they would be placed within it Kosovo independent institutions, or return to an autonomous territory within Yugoslavia (Report of the Secretary-General 1999). The UNMIK transition plan moreover, didn't not work exactly as foreseen. UNMIK's capability to administer Kosovo municipalities was particularly weak since Kosovo Liberation Army (KLA) had already established s form of Provisional Government, which operated as a parallel structure in many municipalities. One has to add the operation of pre-war institutions, which further complicated UNMIK's governing authority. The initial proposed structure of the presence of UNMIK in Kosovo, as seen in Figure 1, was also revised in 2000.

**Figure 1: UNMIK interim administrative structure 1999, adapted from Dominik Zaum (2007).**

SRSG	<b>Pillar I</b>	Resettlement
	Humanitarian Affairs	Relief Efforts
	UNHCR	Mine Action
	<b>Pillar II</b>	Civilian Police
	Civil Administration	Judicial Affairs
	United Nations	Civil Affairs
	<b>Pillar III</b>	Capacity-Building
	Institution-Building	Democratization and Governance
	OSCE	Human Rights
	<b>Pillar IV</b>	Transport
	Reconstruction	Central Fiscal Authority
	European Union	Agriculture
		Reconstruction

Source: Dominik Zaum (2007).

The reality on the ground necessitated the inclusion of Kosovo institutions, be it parallel or pre-war, in the UNMIK administrative structure. Pillar I that was originally managed by UNHCR, after the 2000 revision had the humanitarian assistance competencies largely transferred to the second pillar, which was led by UN. The new administrative structure included presence of locals of all ethnic groups, as can be seen in Figure 2.

**Figure 2: Revised UNMIK interim administrative structure 2000, adapted from Dominik Zaum (2007).**

<b>SRS</b>	Interim Administrative Council (Included 8 members: Albanian 3, Serb 1, PDSRG, DSRSs 3)	<b>Pillar II</b> Civil Administration United Nations	Included 15 departments which were led jointly by local officials and Pillar II international officials
		<b>Pillar III</b> Institution-Building OSCE	Included one department led jointly by a local official and international official of Pillar III
		<b>Pillar IV</b> Reconstruction European Union	Included 4 department led jointly by local officials and international officials of Pillar IV
	Kosovo Transitional Council (Included 35 members of all ethnic and social groups)		

Source: Zaum 2007.

In 2001, the specific powers of the pillars were enshrined in the constitutional framework, which foresaw that Pillar IV, in charge of Reconstruction was to establish the Fiscal Affairs Office, Customs Service, The Kosovo Trust Agency, and the Banking and Payment Authority of Kosovo. This adheres with the one of the core activities that UNMIK undertook in Kosovo contributing to the establishment of a free market economy. The Kosovo Trust Agency became the main entity in charge of the privatization of the Publicly Owned Enterprises and Socially Owned Enterprises in Kosovo. Although there was a *Kosovarization* of the interim administration, in the sense that the new structure included Kosovo authorities and delegated them crucial responsibility, the unclear status of Kosovo's statehood meant that the privatization process was by and large conducted under the UNMIK's Pillar IV, which was led by the EU as the main authority responsible for economic reconstruction and development.<sup>2</sup> Therefore, while assessing the success of a privatization process is a difficult task in general, assessing the Kosovo's privatization process, which involved many structures a complex division of responsibilities and changing competencies, is particularly challenging.

At the onset of the establishment of UNMIK in Kosovo, the vision shared with the World Bank and European Commission foresaw the reconstruction of institutions based on principles of transparency and accountability, the development of a market economy through privatization, and establishment of rule of law and protection of property rights (Knudsen 2010)- all crucial conditions for a successful privatization. Hence, international structures, that foresaw and lead this grand experience of state building, did envision the fulfillment of critical conditions in parallel with scale privatization. The case of Kosovo, however, shows clearly the discrepancy between

theoretical assumptions and even concrete institutional efforts and eventual unfolding of privatization in practice. To the extent privatization proceeded in parallel with other state building reforms, and was largely envisaged by the international structures it was often a closed affair initiated and completed with little input from the public or politics in general. The lack of public debate caused suspiciously little resistance, something that the international community often regarded as success (Knudsen 2010). In their evaluation of whether a rapid privatization process is the best option for Kosovo, Riinvest Institute for example argued that privatization was the right course based on at least three key criteria (1) impact on the reform process and the establishment of a market economy, (2) effectiveness and efficiency, as well as (3) the increased attractiveness for FDI (Riinvest Institute 2001). Knudsen argues that even local experts, focused their analysis of privatization on the details and the objectives of the process, rather than the concrete context, something that added to the lack of a proper debate on the benefits and pitfall of the process. Many reports produced locally similarly focused on the number of SOE's and POE's privatized, the methods through which it was done, and the income they generated, rather than on the fundamental objectives of the privatization to increase output. No-one questioned the motivation behind the privatization process, which was initiated and conducted under international Pillar IV, with little involvement of locals, at least during the initial phases.

Considering the circumstances such as lack of local agency and international guidance under which privatization was initiated and pursued, the paper will analyze (lack of) success of privatization as based on specific criteria: (1) how the valuation is done, and (2) how the privatized entities were revitalized – including an analysis of the labor force. This paper focuses particularly on Socially Owned Enterprises (SOE's). The analysis explores the privatization process in general, and some specific privatization of SOE's in particular.

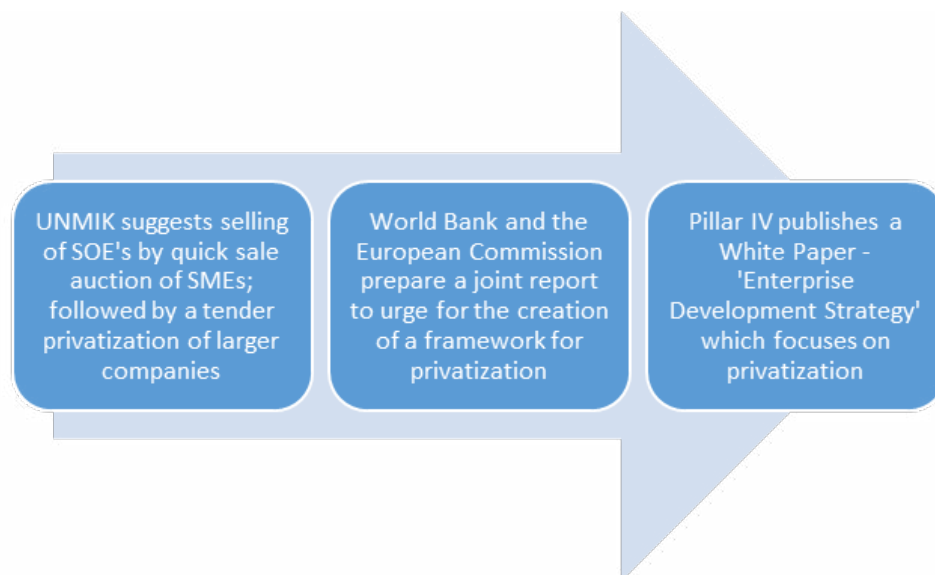
## **Poor Starting Conditions**

As reported by GLPS and BIRN, at the time of Yugoslav economy's top performance, there were around 300 socially and publicly owned enterprises operating in Kosovo (Loxha and Elshani 2016). However, during the late 1980s and especially during the 1990s, the political turmoil that shook what was then a federal state had a major impact on the functioning of SOEs. For almost two decades there were no real investments and most of the SOEs were characterized by mismanagement, which resulted their machinery and assets becoming almost obsolete. The war period of 1998-1999 added to the hardships and the destruction of the SOEs with most of them losing the pre-war assets and value. Thus, Kosovo started the process of economic restructuring with a very poor basis. Pillar IV, of the UNMIK administration as led by the EU, was to jump-start economic reconstruction and development, including privatization of the SOEs. The expected recovery however was very slow. According to Riinvest Institute's 2002 report, the capacity utilization of the enterprises surveyed during the 10 year period 1988-1999 dropped sharply from around 76 percent to 28 percent; at the time of the survey these enterprises improved their capacity utilization by a mere 7 percent, to 35 percent on average (Riinvest Institute 2002).

The status uncertainty, as well as ownership issues arising from the Socially Owned Enterprises being owned by all, but no one in particular, posed a major obstacle since the very start of pri-

vatization, even though UNMIK and other international actors pushed for a quick process. This phase of the process, was characterized with analysis and preparation of expert assessments on how to initiate and how to proceed with the privatization process. Most notably, UNMIK, through its mandate in ensuring the shift to market economy, proposed an auction quick sale of SMEs, while a tendering of the larger companies. This proposal was followed by proposals by both the World Bank and the European Commissions, urging an establishment of a framework for privatization, rather than ad-hoc decisions. Following this, Pillar IV, of the UNMIK Administration, in charge of reconstruction and development, published a white paper, focusing solely on privatization, which would serve as a basis for developing the privatization framework in Kosovo.

**Diagram 1: Pre Privatization Period**

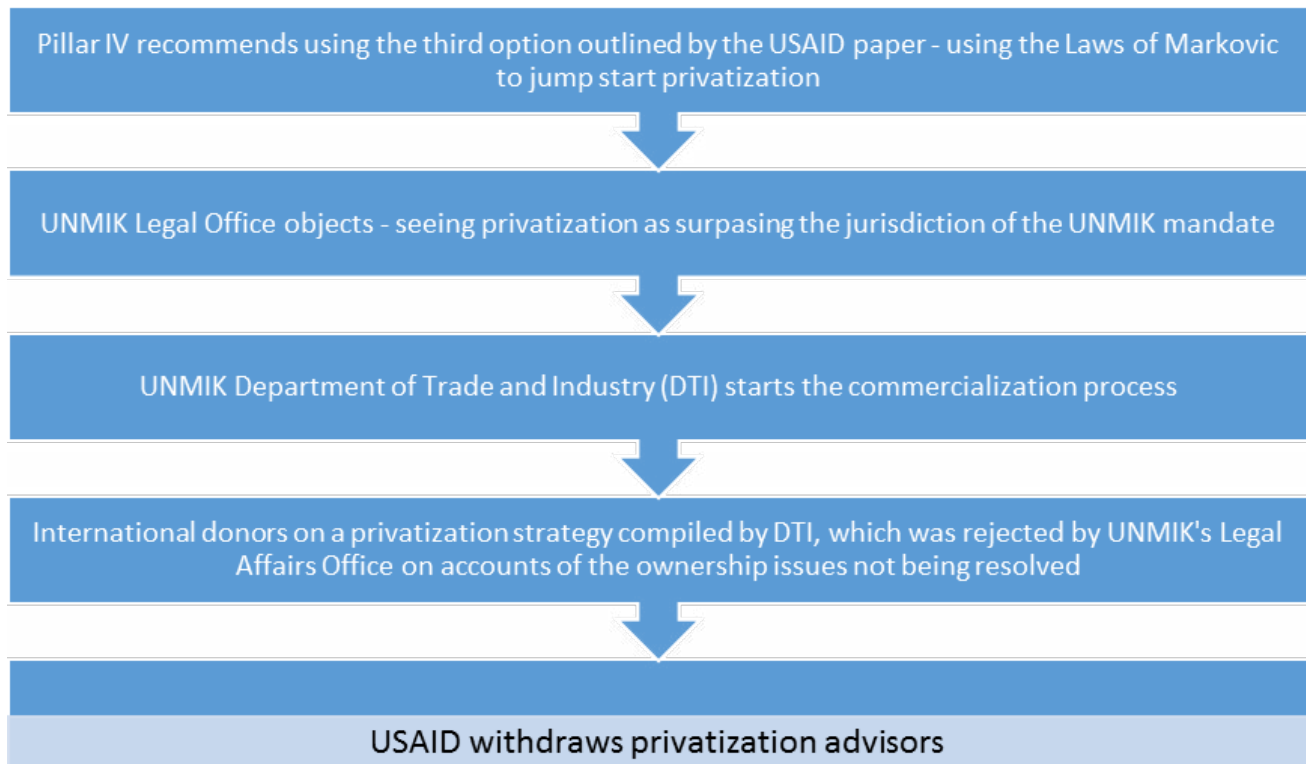


Although the first steps were taken to start the privatization process, there were still issues with the process. Analysis and expert opinions uncovered issues to privatization, the nature of which was mainly legal, including the issues arising from the joint-administrative nature of Pillar IV. Legal concerns, especially ownership issues facing the socially owned enterprises would arise, with special concerns on the jurisdiction of local and international institutions. The overlapping jurisdiction of the institutions was also of concern to a USAID-funded report which outlined that for the privatization of SOE's to begin, one of three things have to happen: (1) Kosovo is empowered to carry out its own privatization; (2) UNMIK creates its own privatization regulation; (3) or the process is done under post-1989 laws. These three options are considered in the attempt to jump-start the privatization process. However, the applicable legislation in Kosovo, under UNMIK administration was considered the legislation that were in place before the March 22, 1989, when Kosovo's autonomy was suspended (Muharremi 2005). So, proposing privatization process to begin with post-1989 legislation was problematic, not only due to the suspension of Kosovo's autonomy, but also due to the start of the privatization process in Yugoslavia under Markovic laws.<sup>3</sup> It was crucial that the burden and the responsibility of privatization would be clearly defined between international and local actors. While general issues with privatization were conceptual, as the process was at the beginning, many conflicts around between actors during the



actual process. Below is the process of disagreement between different international entities on the privatization in Kosovo.

**Diagram 2: International debate on Kosovo Privatization Process**



Following the settlement of disagreements, after three years of deliberations, the first steps for the official beginning of the privatization process in Kosovo were underway. By the proposed regulation of Pillar IV, which foresaw the establishment of Kosovo Trust Agency – which would be in charge of the privatization process – outside of the UN mandate, the Agency was established in 2002.

**Diagram 3: Establishment of Kosovo Trust Agency**



Kosovo Trust Agency was established under the following stipulations:

- KTA management would consist of a board of directors, a managing director, and two deputy directors
- Board of KTA was to be chaired by the Pillar IV head, also deputy SRSG, with three other international directors being part of the board (UNMIK Regulation No. 2002/12 2002)

In these steps, it is clear the major burden that status uncertainty – risking liability for UNMIK, and undefined ownership impose on such a process. Not having a clear breakdown of the responsibilities and jurisdiction would risk that the wrong institution was held liable for decisions on privatization. This is what the legal office of the UN considered problematic when advising UNMIK on their work. However, upon the establishment of the KTA, Pillar IV, which was in charge of economic reconstruction, was mainly focused on the privatization process. The aforementioned issues were considered under control by the international community and a mass privatization process was considered the most suitable course of action. The founding of the Kosovo Trust Agency in 2002, marked the official institutional basis for the beginning of the privatization process. The KTA was established through UNMIK Regulation No. 2002/12 (UNMIK Regulation No. 2002/12 2002). This regulation mandated the KTA as responsible for both Socially Owned Enterprises- SOEs and Publicly Owned Enterprises - POEs. Afterwards, KTA pursued privatization of SOEs through regular, special, and conditional spin-offs. The spin-off privatization method foresees a new company (NewCo), administered by the KTA, being created, to which the assets of the SOE are transferred, while the liabilities of the SOE remained with the old company. The old company would own shares of the new company, which would be administered by the KTA and would be sold to potential investors (Privatization Agency of Kosovo 2009). Special spin-off methods is to be used for the largest and most strategic SOEs (Privatisation Agency of Kosovo 2009). While in many countries, the privatization process required a meticulous list of conditions to be met by companies wishing to privatize, in Kosovo out of all privatization methods, only special and conditional spin-offs required investment and employment conditions to be met (Kosovo Trust Agency). These rules were established in the Rules of Tender for Special Spin Offs that were published for each case of special spin off individually.

In general, through the spin-off rounds, the SOEs were privatized by the highest-bidder method. The earnings from the sales are kept in a development fund at the Central Bank of Kosovo, where privatized enterprises had their own accounts, to keep the proceeds until the claims of the creditors were settled, after which the funds could be transferred to the state budget (Loxha and Elshani 2016). This process ensured that the funds from privatization would not be misused. It also involved the Central Bank of Kosovo, as the main banking authority, one that was not politically or otherwise tainted, to ensure the funds from the privatization process.

However, the most important step in this process was the fact that the funds were to be kept at the Central Bank of Kosovo, until creditor claims were settled. This shows a clear legal problem that was envisioned at the beginning of the privatization process and consistently persisted. The fact that there were issues and claims of creditors led to the proceeds from the sales not being transferred to the state budget following the completion of the process. This in return led to an unfinished privatization process in completing the aims it was first set out to realize. The Special Chamber of the Supreme Court of Kosovo was established with exclusive authority to deal with matters pertaining to the Kosovo Trust Agency (UNMIK Regulation No. 2002/13 2002). This Chamber was trusted the authority to deal with the claims and challenges on the decisions that the KTA has made. While the legal technicalities of the privatization in Kosovo remain crucial to understanding the progress of the process, their analysis can be found papers and documents specifically focused on the legislative issues of the privatization.<sup>4</sup> Considering



this background information, the combination of the obsolescence of the SOEs, and the uncertain institutional and property conditions under which the privatization process started, any evaluation of the process needs many caveats.

### **Pursuing Privatization under Status Uncertainty**

To have a clearer picture of the privatization process in Kosovo, prior to assessing the specifics, we look at the proceeds and the level of privatization in years 2002-2008 – when the issues of statehood uncertainty and ownership ambiguity were particularly relevant.

**Table 1: Privatization 2002-2008**

Year	Regular Spin-off	Special Spin-off	Revenues (million EUR)
2002	0	0	0
2003	24	0	-
2004	0	0	0
2005	104	10	50,747
2006	225	18	133,165
2007	214	7	111,697

Source: Author's calculations based on KTA data.

The following analysis refers to a Riinvest Institute survey conducted in 2008. In this survey of 66 privatized enterprises, the percent distribution of privatization methods correspond to the overall sample – as calculated in the above table. The sample of the privatized firms, based on the Kosovo Trust Agency (KTA) registry, was selected to include firms that were privatized from the initiation of the process up to the 22<sup>nd</sup> wave of privatization. Out of the 367 enterprises, Riinvest Institute selected 108 to conduct face-to-face interviews with. This sample includes all the enterprises privatized through a special-spin off method, whereas the rest of the enterprises were randomly selected. Out of the 108 selected enterprises, 36 were not active at the time of the survey, and 5 others had not completed the privatization process, thus resulting in 66 surveyed enterprises. The data from this survey provides a closer look into a significant sample size, on other issues.

First, the following data will allow us to analyze the privatization process, from the perspective of the surveyed enterprises. The most commonly expressed reason for participating in the privatization process in Kosovo, by the surveyed owners of the privatized enterprises was the cheap labor in Kosovo, at 31 percent, followed by family ties in Kosovo at 29 percent. Natural resources were the third most common reason stated, at 13.5 percent. Only one percent (1%) of the surveyed enterprises cite favorable tax policies as the reason for privatizing in Kosovo. This shows that the main reasons for being involved in the privatization process in Kosovo are circumstantial rather than provided by governmental policies. Moreover, in terms of the efficiency of the transfer of ownership, it took, on average, 7 months between announcing the winning bid, to the signing of the contract. Afterwards, it took, on average 4.3 months from the signing of the contract to taking control of the privatized enterprise. On average, the time from the announcement of the winning bid, to the transfer of control over the enterprise to the

privatizing company, took almost one year (11.3 months to be exact). While there are outliers, both in shorter time span, and in longer time span, an 11.3-month period is a relatively long time to take for the privatization process to be completed. The main source of capital for the privatization process was own means of financing, at 52 percent, followed by loans from local commercial banks, at 28 percent.

Second, the available data on post-privatization, allows us to create better insights into the post-privatization period, corresponding to the second benchmark of evaluation. Looking into the privatization process of their respective enterprises, out of the total privatized enterprises surveyed, 83 percent of the owners at the time of surveying were the first owners, whereas 15 percent, or 10 enterprise owners had bought the enterprise from the initial privatizing entity. This shows that in 15 percent of the cases in the surveyed sample, the initial privatizing owner sold the enterprise to a secondary owner, who did not undergo the background of the privatization process. This causes a concern in terms of following-up on re-purposing of the privatized enterprises. In a comparison of the work that the privatizing company has been involved in prior to the privatization process and post-privatization, 61 percent of the surveyed enterprises claim to have the same business activity as the activity of the privatized firm. However, around 17 percent claim that the business activity is somewhat similar, while almost 20 percent claim that the business activity of the privatized enterprise is different from what the company was engaged in prior to this privatizing process. This shows a considerable level of diversification from companies through the privatization process. When asked about the pre-privatization activities of the privatized enterprises, 25 percent of respondents claimed that the enterprise was engaged in production activities, 27 percent stated that the enterprise was in the service industry, whereas the remaining did not categorize the activities of the enterprise pre-privatization. While the pre-privatization activities are important for determining whether the enterprise was re-purposed post-privatization, other factors, such as production and investment, along with employer retention remain as important in providing a comprehensive analysis of the surveyed enterprises. The vast majority of the surveyed enterprises, almost 64 percent have not engaged in production of new products after the privatization process, whereas almost 58 percent have not initiated any new production processes post-privatization. This shows a low level of steps undertaken to innovate or bring upon new production in revitalizing the privatized enterprises. However, it is clear that any innovation or change of production requires investment. Based on the surveyed enterprise responses, most of the investments by these enterprises are made during the privatization period – which includes the sum of privatization, which includes the land, objects, as well as machinery. Finally, looking into employee retention, on average, the surveyed enterprises reported around 62 percent of the employees that were working in the enterprise prior to privatization, were still working there after the firm was privatized. This percentage is slightly higher for the management staff, reporting almost 65 percent of the management staff retention, on average.

**Table 2: Firm size and turnover**

Firm size	Mean value of turnover (€)	
	Privatized companies	Private sector
Micro	€ 4,166	€ 7,105
Small	€ 36,048	€ 82,445
Medium	€ 177,159	€ 211,346

Source: Riinvest Institute data, 2008

Disaggregated by privatization method, enterprises privatized by special spin-off report a mean-value turnover of €224,048.00, compared to a mean-value annual turnover of €43,182.00 for regular enterprises privatized through regular spin-off and €38,056.00 for those privatized through liquidation.

Considering the KTA data that the SOEs in Kosovo accounted for around 90 percent of industrial and mining base, around 50 percent of commercial retail space, as well as 20 percent of the agricultural land – SOEs represented most of Kosovo’s economic potential (Kosovo Trust Agency 2005). The revenues received from the privatization of almost 600 SOEs do not reflect the potential that these SOEs have on paper. This is either due to overvaluation of the SOEs prior to the privatization process, or due to the underpricing of the SOEs when undergoing the privatization process. Thus, we examine our first criteria for a successful privatization, that is, correct pricing and valuation of SOEs.

#### **Mistaken evaluations: Overvaluation of SOE’s and Undervaluation of Land**

As mentioned above, by the end of the war, liabilities of SOEs in Kosovo, were far below their expected level of activity and value. Riinvest Institute surveys with SOEs in the first three years after the war, and prior to the beginning of the privatization process suggest a degradation of their economic activity (Riinvest Institute 2002). In 1999 only 55-60 percent of the total SOEs were active, and those active use only 28 percent of their capacities. The number of active employees was also half the number of registered employees. The economic activity picked up in 2000 and 2001 with 86 percent of the SOEs becoming active. Still, the capacity utilization and turnover increase were 35 percent and 34.4 percent in 2000, and 41.8 percent and 66.2 percent in 2001. However, these levels were still low compared to pre-1990s levels of activity. This improvement in economic activity, moreover, showed only slight improvements regarding number of active employees in 2000, and a decrease in 2001. At the start of the privatization process, average salaries in SOEs were 282.00 DM.

**Table 3: Economic Activity of Socially Owned Enterprises**

Economic activity of SOEs			
Description	1999	2000	2001
Active SOEs (percentage of the total)	55-60%	86%	86%
Capacity utilization	28%	35%	41.80%
Turnover increase in %	-	34.40%	66.20%
Number of active employees	18,171	24,662	21,689
Number of registered employees	36,023	42,203	41,207
Average monthly salary		215 DM	282 DM

Source: Riinvest Institute Data, 2002

The revitalization of the SOEs has been difficult due to the high level of depreciation of the assets and technology that was already outdated. Hence, the highest level of capacity utilization for the SOEs included in the Riinvest surveys in 2000 and 2001 was approximately 42 percent, which is low from the possible 100 percent, although shows a grown trend from 1999. This shows that even after the enterprises started operating, they were far from completely functional or able to use their resources. Combined with mismanagement that characterizes state and socially owned enterprises in general, and the demolition of the war in particular, privatization process typically started with underpricing and undervaluing the SOEs assets. However, how the issue complicates privatization is a two-sided problem. While the privatization process in Kosovo is oftentimes criticized for being rapid and auctioning off SOEs under their value, there is a more nuanced explanation of this. While it is true that most SOEs were depreciated and obsolete at the time of the privatization, the perception they were undervalued stems from the valuation of the 1980s and 1990s. The assessment done in a period of technological advancements and investments, and issued by the state leaves room for speculation on the real value of these companies.

Second, given that the privatization process started in a rapid manner, most of SOEs lacked the necessary time for revitalization and reaching full economic viability. Thus, their market value rested mostly on the land of these SOEs rather than their potential activity. This was due to both the lowering of the value of the SOEs as a whole, but also due to the increase of the value of land in Kosovo after the 1999 war. According to Riinvest survey data, in 2000 SOEs valued land was at around 19 percent of the total value, whereas in 2001 this increased to 37 percent of the total value (Riinvest Institute 2002). Moreover, the biggest challenges identified by the SOEs themselves in hindering their potential for increased economic activity are the lack of financial capital, obsolete technology, damages from forceful mismanagement and the war, as well as uncertainty surrounding property rights (Riinvest Institute 2001). These problems have significantly decreased the potential for revitalization of SOEs prior to their privatization. Considering these caveats, while still not having an official valuation of the SOEs, we can conclude that while there is a perceived underpricing of the SOEs in the privatization process, this is difficult to measure specifically. Both the lack of a general framework of assessment, the rapidity of the process and the problem surrounding property rights has certainly undermined a proper updated assessment of those companies.

## Revitalizing economic potential

Another criteria to evaluate the privatization process is whether privatized SOE have reached their potential or were privatized merely for *scrap*. As previously mentioned, most of the SOEs, were privatized without any conditionality regarding the labor force, the revitalization of the production, or any restrictions on re-destination. Since the majority of the SOEs were privatized through the regular spin-off method, there were no obligations for the investors to maintain the enterprise under its original purpose, invest for its development, and/or retain employees. As a result, most investors repurposed the property ranging from building residential areas, to storage spaces, or transforming it to other business activities.

A very small number of privatized SOEs continued their production designation after the privatization. This has major impact on the labor market tool. Considering the production and industry level impact, and keeping in mind that KTA estimated the SOEs to cover around 90 percent of the industry in Kosovo, a privatization process that allows for these SOEs to be repurposed has impact not only on the economy directly, but on the entire labor market. As GLPS and BIRN report, around 40,000 people lost their jobs as a direct result of the privatization process during the 2002-2012 period (Loxha and Elshani 2016). Although it was established that 20 percent of the proceeds from the privatization would go to the workers, due to the low prices at which the privatization of SOEs took place, these proceeds were also low. Another concern was that workers that were left out of jobs during this process were relatively old, and had usually a very specific job training that was not applicable or necessary on the job market. Privatization resulted in a low percentage of jobs retained, while most of the jobs were lost, especially due to the fact that a lot of privatization resulted in re-destination of the enterprises.

Concerning whether the privatized SOEs were returned to their designated field or were repurposed for unproductive usage, most cases of privatization have yielded repurposing for unproductive usage of the SOEs. The overwhelming majority of the cases of privatization have not only left more workers without jobs than the jobs it has created, but they also failed to revitalize production. A large part of the problem here lies with the design of privatization whereas regular spin-off privatization had no strings attached for the investors.

## Cases of Success Against all Odds?

Despite a general feeling of failure of most cases of privatization and depleting of crucial sources of economic recovery, Kosovo Privatization Agency promotes a few successful stories – Ferronikeli, 'Klllokoti', 'Vineyard Stone Castle', 'Hotel Theranda', 'Trofta', 'M&Silloi', 'Peja Brewery and 'Hotel Nora' (Privatization Agency of Kosovo). Out of these success stories, Ferronikeli stands out, as the largest privately owned heavy industry producer, that employs more than 1000 workers and has become a worldwide exporting enterprise. After privatization, Ferronikeli was not re-purposed, but continued its production and increased the productive rate. It also retained a major share of the employees, fulfilling both criteria of a successful case.

The particular frame of privatization, and attachment of specific conditions, here might explain some of its success. Indeed, Ferronikeli was privatized through a special spin-off round, which automatically requires investment, retention of employees, as well as keeping the designated

purpose of the enterprise upon privatization. The initial design, whereas the special spin-off procedure also requires the enterprise to be privatized to the highest bidder, also determined that the valuation of the enterprise was done near the market price. With almost €60 million invested in the course of few years and more than 1,000 employees, Ferronikeli continues to be one of the few stories of success. Even privatization of Ferronikeli however was controversial and marred by allegations of misconduct. KTA regulation require at least three bidders for a privatization to take place, which in the case of Ferronikeli didn't realize. Only two companies bid for the privatization, and of these two, the highest bidder was disqualified, leaving the lowest bidder as the winner (Knudsen 2010). The official reason provided by the KTA at the time of the sale, was that the other bidder, Albanian Adi Nikel, did not fulfill the criteria of a valid consortium anymore (Kosovo Trust Agency, 2005). Given that this case was privatized at a price lower than the highest bidder it only meets one criteria, while still being one of the best ranking privatized enterprises.

Another explanation of the functioning of Ferronikeli was state-offered subsidies. The privatizing company, the UK based Alferon, prior to the sale, reached an agreement with the Kosovo Energy Corporation (KEK) on the supply of electricity for Ferronikeli. As it was estimated in Knudsen 2010, Ferronikeli uses around 10 percent of all electricity in Kosovo (Knudsen 2010). The agreement between KEK and Alferon was a crucial caveat to the sale of Ferronikeli. This agreement ensured that KEK would supply the factory with electricity at a price that would cover approximately only half of the production costs of KEK. Ferronikeli reached the agreement to pay 30.5-32 euros for MWh.<sup>5</sup> Considering that KEK, at the time of the sale, was fully a state owned company, the electricity price for Ferronikeli was a direct subsidy of the state to a private company. In 2011, KEK and Ferronikeli reached an agreement to increase the price to 42 euro per MWh. The issue of reaching agreements with the state for the inputs necessary for production complicates the theoretical definition of privatization as a transformative process which ensures the transfer of ownership of enterprises from the state to private hands, in attempt to increasing productivity and efficiency. In the case of Ferronikeli, a privatization process administered by the international community, to transfer a socially owned enterprise to an international private company, maintained a subsidization agreement with the state.



## Conclusions

While theoretical expectations for successful privatization remain a good basis for construction of evaluation criteria in practice, many are based on assumptions of institutional and legal infrastructure that has not been in place in Kosovo. Privatization process assessment is difficult in general, in the case of Kosovo even more so. While it is easy to assume wrongdoing and failure of the process by general criteria, it is necessary to evaluate the process given the context.

Kosovo has undergone privatization process without fulfilling the primary conditions necessary for this process, such as stable and well-defined institutions, assigned property ownership, as well as functioning legal framework. At the time of the start of the privatization process, Kosovo was still under an undefined status while under UNMIK administration. These circumstances make for a difficult privatization process, since it was carried out by institutions that had no public support or required it. As a post-conflict, post-communist economy, Kosovo SOEs lacked proper valuation and were depreciated and obsolete compared to the last valuation. This made it difficult for the privatization process, since (1) it was perceived as a process that sold SOEs under their real value, (2) there were no official documents to ensure that the valuation was done properly. As such, it was important to use this criteria to evaluate the privatization process, while understanding the context of the state in which these SOEs were at the time of privatization. This criteria yielded no concrete results, due to exactly the aforementioned issues.

The second criteria used by this paper in evaluating the privatization process, was the designation of the SOEs and the impact on the labor force. Compared to the first criteria, this was easier to evaluate, however, by the privatization process design, obligations for keeping the designation of the SOEs and retaining the labor force were only required in the special spin-off privatization waves. Thus, failure to rank well in this criteria, is not an issue of the process itself, rather an issue of the design of the privatization in Kosovo. Keeping this in mind, we looked at a potential success story in Kosovo's privatization process, however, it was clear that the strings attached to the success of this case were crucial to its success.

Overall, the privatization process in Kosovo, cannot be considered successful, even when we consider the context and circumstances. Reasons ranging from the improper design of the privatization regulation, to political and institutional uncertainty, to the short period of time under which the privatization process was started, remain large determinants of the whole process. Evaluation of the privatization cases by criteria that are specific to the Kosovo process, while helpful, is difficult to be done in isolation from the underpinnings of the existing circumstances.

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## (Endnotes)

1 Discussion of ideological debates and stances on privatization is a wide topic of discussion, one that is beyond the scope of this paper.

2 There is a very important debate on the issues arising from UNMIK being the body to administer the privatization process, considering that UNMIK's mandate consisted of Kosovo's reconstruction, however also prevented it from violating Serbia and Montenegro's territory, a debate that in depth is beyond the scope of this paper. For more on this, see Knudsen 2010, Zaum 2007, both cited on this paper.

3 *Markovic Laws were named after Ante Markovic, the last Yugoslav prime minister and were developed with the insistence of IMF.*

4 One such paper is by Grasten and Uberti, which provides a very detailed analysis of the legal issues of the privatization process in Kosovo.

5 As reported in numerous news sources in Kosovo and the region: <http://energija.al/2011/02/24/kek-u-propozon-qe-ferronikeli-te-paguaje-42-euro-per-1-mw/>



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# **Crafting Exclusive Nations? The Role of Education in Post-war Kosovo**

**Ervjola Selenica**

## **Introduction**

The historical congruence between nation-state and public education has been challenged by the changing nature of contemporary warfare, processes of globalization and state-making practices. Such challenges and changes have given rise to new forms of hybrid and liberal governance that pose a limit to both the state autonomy and sovereignty (Dale 1999; Chandler 2010). The moulding of a functioning education system is a key challenge specifically for states emerging from armed conflict. In these post-conflict settings, education reform is considered a developmental activity contributing to wider processes of institution building and reconciliation in a perspective of peacebuilding and stabilization.

Kosovo's education system is an interesting case not only because of the country's exposure to unprecedented levels of per-capita post-conflict reconstruction aid that were channeled through an international statebuilding mission, but also because in few other cases the functioning of the education system is so directly interwoven with conflict drivers and state-making dynamics. Not only has education played a seminal historical role in the rise and shape of Albanian nationalism, as it did with all other national identities in the Balkans (Strazzari 2000): in Kosovo the struggle over education emerged as the primary site of contention between Serbs

and Albanians, and to date it remains very much a minefield. However, in the post-conflict phase the education apparatus appears to be moulded by a clash between externally-promoted initiatives and reforms underpinned by multiculturalism, ethno-territorial decentralization and modernization, and locally-resisted and supported reforms that remain ethnically exclusive and tied to the broader political Kosovo question.

This study identifies discontinuities and continuities in the relation between education and state (formation) as a result of competing local and international visions and agendas of education reform. In particular, we analyse the changing relationship between state and education following externally driven education reforms that clash with domestic actors' vision(s) of education. Despite attempts by international actors to promote integration and multiculturalism, difference and segregation still prevail. The main research question is: how are international and local actors competing to define the role of education in post-war Kosovo and with what results? Therefore, the analysis genealogically focuses on those critical historical junctures in which education's role and its nexus to the state have changed. While specifically focusing on the post-conflict period – when the governance of education was internationalized, and its reform strategically negotiated between local and international actors – the chapter starts by examining the role of education before the war and proceeds by analyzing ways and reasons behind the re-definition of its functions in its aftermath. This is done with the purpose of setting education's intertwinement with conflict causes and processes of state formation and nation-building within an historical perspective.

The argument is structured as follows: section one provides a background analysis on the process of international statebuilding intervention in Kosovo; section two evaluates the role of education for the Kosovo conflict, the Albanian national movement and the broader state formation process before the war; section three analyses the politics and governance of post-war education reform by investigating the role and agendas of local and international actors in education reform between 1999 and 2014; the last two sub-sections analyses such agendas by focusing on education for minority communities and higher education shedding light on how multiculturalism and the multi-ethnic composition of the state have been addressed, institutionalized or resisted by local and international actors. Three main lines of analysis emerge and characterize the hybrid governance of education reform: multi-ethnicity *versus* nationalism; internationals' strategies *versus* local resistance; European standards *versus* local clientelism.

As methods for data collection and analysis, I have used genealogical historical narrative and textual analysis of key official documents and policy reports from the Kosovo government, the Ministry of Education, and main international actors involved in education reforms. The analysis also includes primary data collected through 10 semi-structured interviews in Prishtina, in October 2016. Key major international and national stakeholders that were interviewed are divided into 3 groups: (1) representatives from the UNICEF, OSCE, EU; (2) government officials within the Ministry of Education; and (3) representatives from the opposition party *Vetevendosje!*, and the broader NGO/civil society sphere such as the Kosova Education Centre.

This study finds that role and functions of education in post-conflict Kosovo today is the product of two diverging agendas and dynamics: on the one hand, the international community - by no means coherent in its focus on education for minority communities - has supported a multi-eth-

nic education system as the foundation for the new multicultural state; on the other, local elites (either Albanians or Serbs) have resisted such a role and have instead used and incorporated education as part of the building of a society that remains mono-national or ethnically exclusive. The outcome is an education system that reflects such tension between multiculturalism and nationalism and an unfinished process of state- and nation-building.

## **International statebuilding intervention in post-war Kosovo**

The UNSC Resolution 1244 approved by the UN Security Council on 10 June 1999, gave to the United Nations (UN) unprecedented civil and administrative functions and broad government responsibilities for governing post-war Kosovo by establishing the United Nations Interim Administration Mission in Kosovo (UNMIK). Until the resolution of the final political status, core executive and legislative powers were exercised by UNMIK and the Special Representative of the Secretary-General (SRSG). UNMIK's areas of responsibility, were separated and entrusted to key international actors [the UN, the EU, the OSCE, the World Bank] (Héthy 2002). The Provisional Institutions of Self Government (PISG) started operating as of April 2002 and included all three ethnic Albanian political parties, i.e., the Democratic Party of Kosovo (PDK, ex KLA), the Democratic League of Kosovo (LDK), and the Alliance for the Future of Kosovo (AAK, another ex-KLA branch). The local authorities could work parallel to UNMIK, but the core UN mission maintained 'exclusive' power and competences over crucial governing areas, while the provisional authorities gained gradual ownership in 'transitional areas' such as education (Héthy 2002). With the final political status in a limbo, back in 2002, the SRSG Michael Steiner launched the 'standards before status' policy, which listed benchmarks that local authorities had to reach before a negotiation for the final status could start.<sup>1</sup>

Five years later, in March 2007, as negotiation between Serbs and Kosovo Albanians had reached a deadlock, the Special Envoy of the Secretary-General Marti Ahtisaari proposed a UN plan that would grant Kosovo 'supervised independence' under EU tutelage and NATO protection. Kosovo Albanians accepted the plan but Serbia rejected it. Decentralisation was introduced by UNMIK as the way to address the cause of conflict and pacify ethnic tensions. Hence, the Ahtisaari Plan (the Comprehensive Proposal for Kosovo Status Settlement), which served as the basis for the solution of the status issue and as the framework for managing the supervised independence proposed a decentralised-based system of governance accomodating Albanians and Serbs. The suggested asymmetrical system of power-sharing provided wide autonomy for the minorities through the creation of six new municipalities of Serbian majority that would have exclusive powers in matters of higher education, secondary health care, cultural and religious affairs, local police and the entitlement and collection of local taxes (CPKSS 2007, Annex III: Art. 4 and 8.2).

On February 17, 2008, Kosovo's declaration of independence pledges the country would be "a democratic, secular and multi-ethnic republic, guided by the principles of non-discrimination and protection under the law" (Kosovo Declaration of Independence). According to Krasniqi, "[K]osovo is not defined as a national state of a titular nation, but a multi-ethnic state of all citizens, guided by the principles of non-discrimination and equal protection under the law of all

communities” (2013, 403). This definition of the state has implications for the relationship with its citizens and it has implied an array of rights and protection for its minorities first enshrined in the Ahtisaari Plan (Annex II) and later on in the Constitution of Kosovo (Chapter II and III). Among others, it includes reserved seats in the parliament (ten for Serbs and ten for the rest of the communities), two ministerial portfolios in the government, proportional quotas on other governance’s levels, and double-majority for issues of vital interest to non-majority communities (Krasniqi 2013, 403).

The system however also allows distinctive identity groups to seek payoffs and rewards by avoiding connections, exchange and integration. Not surprisingly then, Kosovo has remained “[a]n ethnically divided society after nine years of direct international rule and control” (Krasniqi 2010, 532-534) and after 16 years of shared power by the international community and local authorities. According to Randazzo and Bargués, territorial autonomy has resulted in further segregation: “[A]s ethnic territorial decentralisation relies upon a static notion of contending ethnic groups, the borders include one group and exclude another. Reconciliation or cooperation becomes problematic, as patterns of conflict are reproduced instead of appeased when peacebuilding is about mapping the territory according to ethnicity.” (2012, 36)

## **Education and the Albanian national question: Resistance, statehood and ‘Parallel Education’ 1968-1999**

The pivotal phases of the conflict that characterizes much of Kosovo’s modern history have been punctuated by events in the sphere of education as a site of contention, lending to articulation of a long-simmering conflict (Strazzari 2000).<sup>2</sup> As such, education became the stage in which the national question, involving claims about autonomy, statehood, and sovereignty, has been performed by both the Albanian and Serbian sides. The establishment of the University of Prishtina in Albanian language on November 19, 1969, represented the first instance of autonomy for Albanians in Kosovo after many years of repression: it came to symbolize the Albanian national identity and paved the way to inter-Albanian exchanges in the Balkans (Kostovicova 2005). The Yugoslav constitutional reforms of 1974 gave to Kosovo, then an autonomous province, nearly full control over education governance and content matters. Kosovar Albanians were at that point empowered to promote their own culture and history through education in their own language (World Bank 2001, 107).<sup>3</sup>

During the 1980s, however, authorities in Belgrade resorted to progressively re-centralize control over the content of education. It all started with the riots around the University of Pristina in 1981, soon after the death of Yugoslavia’s leader Jozip Broz Tito. According to Woodward, “[t]he student rebellion in Kosovo in 1981 began not as a secessionist movement, but as a demonstration against the lack of jobs for university graduates” (1999, 279-81). The transferring of authority over education to Belgrade was part of a process of repressive reassertion of central prerogatives and Serbian re-nationalization of Kosovo that began with introducing segregation in different school buildings, the introduction of new curricula – that simultaneously increased instruction in Serbian history and culture and reduced hours for Albanian language, history and literature (Kostovicova 2005). Oppression culminated when Kosovo’s autonomy was abrogated



in 1990, a process that led to the expulsions of teachers and the closing of secondary schools.<sup>4</sup>

Albanians responded with the proclamation of the shadow 'Republic of Kosova' which followed the organization of a parallel system of governance, boycotting of state schools and creation of a parallel system of education, which were typically organized in private houses, garages and cellars. Gradually, the education system became ethnically segregated - formal education remained a *façade* that was boycotted by the vast majority of the population, and the parallel system that went underground, and was separated in structure and content was tolerated. Throughout the 1990s, 'parallel education' was the only fully functioning system in the shadow 'Kosovo Albanian state'.<sup>5</sup> It played an important political role by representing the Albanian non-violent strategy as a legitimate form of national struggle against Serbian repression: "[it] was both a symbolic and a political expression of Kosovo Albanian nationhood" (Kostovicova 2005, 2).

However, Dayton's agreement that left Kosovo issue unresolved, signed the end of the fragile equilibrium between the Belgrade authorities and the 'Republic of Kosova' parallel institutions. Students from the University of Prishtina returned to the streets firing new conflict dynamics and becoming the blueprint of national aspirations. Given the fact that education was the only fully functioning public good produced by the Kosovo Albanian parallel state, controlling education became an expression of political power and governance. In the last years before the war, there was a power competition among the Kosovar political elite both inside Kosovo (such as the LDK party, university students and different armed factions that would soon conflate into Kosovo Liberation Army) and in relation to the diaspora over the control of education which turned it into an arena of struggle and conflict (Kostovicova 2005, 211).

## **Inclusiveness and European standards as the staple of education reform, 1999 and 2014**

In the aftermath of the war, UNMIK, assumed full power in managing educational reconstruction and reform (Søbjerg 2006). Both the parallel system of education and his legacy was considered utterly problematic and were dismantled by the UNMIK's Department of Education and Science [DoES] (Sommers and Buckland 2004, 35). Beside UNMIK, many other international governmental and non-governmental agencies became active to shaping post-war education reform. Michael Daxner, the International Administrator for the University of Pristina and the broader education system (2001-2003), inaugurated a 'lead-agencies approach' whereby renowned international agencies were assigned core tasks within the education system: UNICEF on curriculum reform; the Canadian International Development Agency (CIDA) on teacher training; the European Commission on infrastructural reconstruction; the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) on technical and vocational training (TVET); the World Bank on quality assurance, and management information system support; and the OSCE on higher education (Sommer and Buckland 2004). In the beginning, the promotion of the 'lead agencies' approach created overlaps and often sidelined those local actors that were in charge of running pre-war education.<sup>6</sup>

The UNMIK strategy for post-conflict education reform resorted to creating a unified and efficient educational system while ensuring transfer of power and competencies from the international to the local counterparts.<sup>7</sup> UNMIK's main goal was "[s]upporting the longer term reconstruction and transformation of the education system to reflect the needs of a modern European society on the brink of the twenty-first century" (Daxner 2000, 216). For the OECD "[t]he international community remains committed to ensuring a peaceful *multi-ethnic society*, with an education system that serves the needs of Kosovo's young society and reflects modern European standard" (2001, 10). This was enshrined in the UNICEF-led Kosovo Curriculum Framework for primary education, whose aim was to promote a *pluralist and multicultural society* (UNICEF and DoES-UNMIK 2001).

The formal transfer of competencies for education reform and governance to local authorities was done in 2001 with the creation of the locally-led Ministry of Education, Science and Technology (MEST) as part of the newly-elected Provisional Institutions of Self-Government (PISG). However, the role and commitment of international actors after 2001 remained important in all levels of education, although increasingly focusing on promoting and protecting education for minority communities.

After taking the lead to education reform, local authorities seemed rhetorically aligned to the same objectives of the international community. European standards and the concept of inclusiveness informed also the revision in 2009 by local authorities of the above-mentioned Curriculum Framework for primary education, whose reform focused among others on "[l]earner-centeredness, competencies, integrated teaching and learning, flexibility, mobility and transparency," which reflects "[t]he fundamental values and principles of human rights, living together, social justice and inclusiveness" (MEST 2011, 24). The *Kosovo Education Strategic Plan 2011-2016* led by the Ministry of Education linked life-long learning<sup>8</sup> to inclusive education as the basis of the whole education system, with the overall objective to reach out to all learners, whom are provided with equal opportunities for relevant and quality education (MEST 2011, 11). According to the *Plan*, "[t]he vision for education is to create an inclusive education system and to provide all citizens in the Republic of Kosovo with equal access to quality education at all levels; a system which provides the people of Kosovo with life-long skills for an advanced knowledge integrated into European society and to contribute to the long term sustainable development of the country through job creation and enhanced social cohesion." (MEST 2011, 26) This was confirmed also by the Pre-university Education Strategy 2007-2017 led by MEST with advisory support from international and local consultants. Its aim was to turn Kosovo into a "[k]nowledge society integrated into the mainstream of European processes, offering equal opportunities for personal development to all individuals, who will in turn contribute to sustainable economic and social development" (MEST 2006, 20).

Another priority of the *Kosovo Education Strategic Plan* was "[t]o establish, preserve and improve standards and relevance of all levels of education in Kosovo to European standards." (MEST 2011, 26) The pursuit of and convergence towards 'European standards' and trends such as 'life-long learning' inclusive education has been a policy theme that has informed international and local interventions in post-war education reform.<sup>9</sup> With inclusive education and European standards as overarching themes, since independence (2008), the policy emphasis – both highlighted in government strategies and internationally-supported projects<sup>10</sup> – has shifted towards

vocational education and the need to match education reforms with labour market needs. While consolidating the quality of pre-university education and increasing access to higher education have moved to the top of agendas of international and local actors, many challenges related to access and quality in particular for minorities remain unanswered (ETF 2015, 3).

### **Conflicts over minority education**

The issue of minority rights and minority access to education quickly surfaces as one of the most problematic aspects of education in the post-war context. From the very start, UNMIK tried to include interactive methodologies and new curricular topics in order to promote equity and mutual understanding among different ethnic groups. Additionally, UNMIK insisted in forging multiethnic cooperation and schooling by organizing shift schemes and/or shared facilities, focusing especially on facilitating interaction between the Serbian and Albanian community. While at the beginning, a few schools attempted steps towards integration, including one in Kosovo Polje and another in Kamenica (Pupovci and Hyseni 2001, 9), the system did not work either because of the lack of will on the part of the two communities to attend same schools or for lack of physical security (Nelles 2006, 102).

At the end and, despite the attempts made by the international community to create a pluralist and multiethnic society, post-intervention education reforms evolved in the reversed way (Nelles 2006, 98).<sup>11</sup> The integration of the Serbian community into a unique education system became a highly politicised issue and it has not been resolved yet.<sup>12</sup> The parallel system of education in Serbian was seen by the representatives of the Serbian Education Ministry in Mitrovica as a pillar of Serbian survival in Kosovo, thus acquiring a national and political importance and yet constituting a barrier to the Serbian integration into the Kosovo state, and indeed a form of denial of the existence of this state.

Although local authorities took over reform and governance of education, major international actors such as OSCE, the European Centre for Minority Issues (ECMI), UNICEF, EU, and Council of Europe have been active in the area of education for minority communities.<sup>13</sup> This was also the purpose of the OSCE special unit on democratization, youth and higher education, launched after the 2004 riots, suggesting that OSCE sought to promote democratization and build social cohesion through education.<sup>14</sup>

Such activities have led to a multiplication of curricula in different languages. Although MEST has been on the way of having a single curriculum for all Kosovan communities, with translation in the different languages, a 2009 OSCE report found that curricula for community-specific 'national' subjects for the most vulnerable Roma, Ashkali, Egyptian, Gorani, Kosovo Croat and Kosovo Montenegrin communities were not developed yet (OSCE 2009b, 1). To date, Kosovo's curriculum and textbooks have not been translated into Serbian, suggesting that Kosovo institutions are lacking both the will and a strategy of integration of the Serbian parallel system into the education system of the new state (OSCE 2003, 2006, 2009b). Such enaction, in return, provides an easy alibi to those Serbs who call it the 'Albanian system'.

A 2009 OSCE report, moreover, suggested that while curricula in Kosovo satisfied the educational needs of specific communities, they failed to promote "[m]utual respect, understanding and tolerance" and the generation of youth from different communities in Kosovo that are being

formed in the current education systems will find it difficult to communicate with each other for lack of a commonly understood language and for lack of a non-divisive and shared history (2009b, 24; OSCE 2015). Although the legislation adopted by the new state provides for comprehensive and specific educational rights “[t]he right to receive public education at all levels in one of the official languages (Albanian and Serbian), in areas inhabited by communities whose mother tongue is not an official language, students belonging to these communities are entitled to receive pre-school, primary, and secondary public education in their mother tongue”, for non-majority communities, implementation is weak and characterized by a number of deficiencies (OSCE 2009b, 1; OSCE 2015).

To start with textbooks for primary level textbooks in Turkish and Bosnian languages remained scarce. Only Kosovo Serbs do not face difficulties accessing curricula and textbooks for primary, secondary, and higher education in the Serbian language, because of assistance from Belgrade. Kosovo Bosniak and Gorani students who choose the Serbian curricula are quite satisfied with its quality, but they complain that it lacks sensitivity over their cultural diversity. It is not clear to what extent such an insufficiency illustrates lack of resources or lack of political willingness from local authorities to comply to the criteria for a multicultural education system. There seems to be only partial integration of the Bosnian, Turkish, and Roma, Ashkali and Egyptian (RAE) communities within the Kosovo system of education, while Gorani and Serb communities are not integrated at all (OSCE 2009a). The OSCE report showed that those communities are gradually moving separate ways, which testified to insufficiency of community integration via education for the general integration of minority communities within the broader society (OSCE 2009a).

## **Emerging conflicts between ethnic separation and Europeanization of university education**

The area of higher education policy similarly features ‘fragmentation’ along specific ethnic, religious and linguistic groups and agendas (Bacevic 2014, 128). In Kosovo, politics and higher education have been inextricably linked for both Albanian and Serb communities. Soon after the cessation of hostilities in 1999, university life in Kosovo became deeply intertwined with inter- and intra-ethnic politics. Albanians gradually captured the university of Prishtina as the main domain of Albanian nationalism. Kosovo Serbs, for their part captured the (Serbian) University of Pristina based in the Serbian stronghold, north Mitrovica.<sup>15</sup>

UNMIK attempted to transform the University in Prishtina along its vision of creating a democratic, non-segregated institution accommodating different ethnicities. Yet, even before the solution of the Kosovo status, Albanian leaders now chairing Kosovo state authorities rejected acceptance of Serbs in the University, on grounds that it could have been interpreted as compromising the Albanian quest for independence (Kostovicova 2005). Hence, most efforts of the international administration and the broader international community to transform the role of the University from an underground and parallel institution to international standards, did not really deliver (Woeber 2006). Given local resistance to accommodation of Serb minority and goals of multi-ethnicity, ‘European standards’ emerged as a more general inclusive alternative and policy driver for the transformation of the university sector.<sup>16</sup>

According to Walker and Epp: “[t]he vision for a post-war Kosovo established by the United Nations called for a peaceful transition to a pluralistic democracy and a market economy. Success would depend upon development of the skills, talents, and knowledge of the population [...], and upon broad acceptance of the values of equality, tolerance, and respect for difference, human rights, and justice.” (2010, 105) This was confirmed by the objectives of the Law on Higher Education “[t]o establish, develop, protect and transmit scientific knowledge and research,” functional to cultural, social and economic development (MEST 2002, 5 quoted in Tahirsylaj 2010, 179).

Beside its role for economic development, the University of Prishtina was also envisioned to play a role as an agent for the democratization of the country, although MEST admitted that the biggest challenge for higher education in Kosovo was to establish a link with the economy (MEST 2004). According to the new Statute of the University of Prishtina, the institution aimed to become a leading centre for the advancement of knowledge, ideas and science in Kosovo, along with its full integration in the regional and European higher education space (University of Prishtina 2004). This fits well into international community’s aims to adapt and transform higher education in line with a multi-ethnic, Western university model (Bache and Taylor 2003, 290). According to Bacevic, “[t]he emphasis during this period had been on the transfer of ‘best practices’ and ‘principles of good governance’ which aimed to transform the structure of higher education without necessarily tackling the complicated political framework. [...] It focused on technical aspects of the reform, while leaving the political issues – including the legacy of the conflict – behind.” (2014, 149)

However, political and academic elite at the University of Prishtina systematically resisted UNMIK’s vision for a multi-ethnic but also European model. That most of the academic staff and students were involved in the war, helped to consolidating instead of opening up the Albanian character of the University (Den Boer and van der Borgh 2011). Despite some efforts by the donor community to offer scholarships for the minorities, the university did not appeal to the Serbs and the idea of a multicultural centre of higher education was soon abandoned by all actors on the ground (Den Boer and van der Borgh 2011; Pupovci 2006). Nonetheless, some of the interviews confirmed that in the past few years the donor community is again pushing for introducing quota for minority students at the higher education level.<sup>17</sup>

A similar phenomena evolved at the University of Prishtina in Kosovska Mitrovica (UPKM), which the international administration identified as a potential center of multicultural higher education. According to Daxner, the UPKM could represent the solution to the issue of higher education for minorities by offering higher education in Serbian, ultimately assuring standards for minority rights in Kosovo (2004). For this purpose, international administrators invested both funding and policy instrument such as systems of quality assurance to integrate UPKM into the Kosovo education system, while the UPKM was simultaneously receiving funding from the Serbian government (Den Boer and van der Borgh 2011).

Only between 2000 and 2003 the two universities of Prishtina seemed to develop in parallel without mutual obstructionism which could have led to a gradual integration of the two systems. However, a number of political events such as the assassination of the Serbian Prime Minister (2003), the resumption of a more nationalist government in Serbia, the violent March riots in



Kosovo (2004), and the unilateral declaration of independence (2008) paved the way to further disintegration and separation. The UPKM was identified by the Serbian government as the “[f]orefront of the defense of Serb national interests” and followed Serbian official reaction to opposing Kosovo’s independence (Bacevic 2014, 152). Its identity was strongly tied to the defense of Serbian identity in Kosovo and it came to symbolize “Serbian statehood and territorial sovereignty” (Bacevic 2014, 153). With the creation of the University of Prizren, including programs for teacher education in the Bosnian language, the task for providing higher education for other ethnic and linguistic minorities was moved from the UKPM to the University of Prizren. Still the segregation of two universities of Prishtina symbolized the de-facto separation and ongoing enmity between Serb and Albanian communities.

Beside the Albanian/Serbian clash over higher education configuration, another division that has characterized its development has been the clash between different Albanian political elites for the control of the University of Prishtina. Between 2002-2004 and 2004-2006 arm-struggling took place between MEST (controlled by LDK party) and the university rectorate, which was conquered by the rival PDK party. Quite tellingly, the ministry did not recognize the outcome of the elections for the new rector, denouncing irregularities and frauds. The Rectorate, for its part, defended itself behind a call for the autonomy of the university.<sup>18</sup>

Since independence, the creation of new private universities in Kosovo has combined collective national claims with more political and business interests. Local governments, which until independence, maintained a restrictive hands-off approach towards higher education, abstained from allowing the opening of private universities. As the local government gained more power, liberalization with a corollary of corruption accusations touching both LDK and PDK parties, materialized into the mushrooming of private universities. By the end of 2013, a country of approximately one million inhabitants, high youth unemployment rates and extremely slow growth of the private sector, had 8 public higher institutions, 6 vocational training institutions, and 23 private colleges (USAID 2014; World Bank 2015).<sup>19</sup>

The development of higher education, including its liberalization, was ‘sold’ to internal and local audiences as a strategy to transforming Kosovo into a “knowledge state,” strengthening its legitimacy at the international level and increasing political support for the government in power.<sup>20</sup> The proliferation of private and public universities throughout Kosovo, however, has more often than not little to do with ‘market’ demands, and much more to do with private interests and political agendas.<sup>21</sup> Kosovo’s scholars and civil society representatives frequently saw the liberalization of higher education as a devaluation of knowledge, quality<sup>22</sup> and useful diplomas.<sup>23</sup> Indeed, after more than a decade of ‘market-oriented’ reforms based upon the Bologna process, the University of Prishtina does neither compare nor compete with universities from other European countries. Its main activity has remained teaching while little research is undertaken by faculty members. Learning workplace competencies has not advanced much as the diplomas, knowledge, and skills learned in the university do not match those demanded by the economy and are not really competitive in the European market (Tahirsylaj 2010, 174; ETF 2015).

Perhaps not surprisingly, the quality of the graduates is poor and detached from workforce requirements. A report from the local centre of investigative journalism *Preport* in December

2013, which pointed at the clientelistic system of the appointment of academic staff, triggered student protests (Boletini 2013; Kalaja 2013). The proliferation of a number of public university and private colleges all over Kosovo regardless of budget and demand/supply considerations, also illustrates the 'populist use' of higher education to advance specific political agendas rather than advance the quality and standards of the education sector.<sup>24</sup>

## Conclusions

When the collapse of communist regimes removed Cold War barriers, the resurgence of nationalist narratives that swept 'Eastern Europe' brought the question of national education back to center stage. Kosovo, which after the fall of communism embarked on a long battle for independence and statehood, serves as a perfect case to analyze how education acquired a crucial role as the symbolic producer, the amplifier and the expression of nationhood and statehood ideals. With the emphasis shifting from 'class' during Yugoslavia to 'identity' during the nationalist revival of the 1990s, the international community attempted to equilibrate and shift the focus from separate ethnic claims onto a common multi-ethnic identity.

The chapter has found that the battle for multi-ethnicity and inclusiveness was marred by different, sometimes conflicting and sometimes overlapping international and local agendas on what was to be the role of education in the new state. The internationally-driven liberal peace focused on stability and security emphasising equal collective rights and extensive autonomy for the different communities. The local actors persistently saw education as the arena of exclusive national and ethnic claims, and capitalized on external strategies of reform to reassert ethnic control and stabilize a deeply segregated system of education. Specifically, the international strategy of emphasizing collective rights and ample autonomy for separate communities, perhaps unintentionally, enabled educational segregation and made it *de facto* the most 'rational' relevant choice to pursue for local actors. It certainly empowered local elites' resistance to all-inclusive education and communities' pursuit of ethnically-segregate education, thus dividing more than uniting already animonious ethnic groups. Kosovo case thus shows that education 'reforms' have developed along, reflected and reinforced the ethnic division between the different communities rather than addressing root causes of the conflict. The observed phenomena of universities' ethnic dualization has perpetuated the conflict between the two dominant groups – Albanian and Serbs; The development of the University of Prishtina has been used by different Albanian political elite to expand and consolidate their power base; The University of Prishtina in Mitrovica has similarly used by the Serbian politicians to control and consolidate their segregate domains within the system.

Hence, education has kept reproducing a model of segregated peace, a deeply contested process of state- and nation-building and a non-functioning state. While inter-ethnic interaction remains a chimera of state-building, the reverse pattern' of ethnic and spatial segregation has turned education into probably the most problematic foundation for a sustainable peace and functioning multi-ethnic state.

The next paradigm that emerged as an alternative solution to multi-ethnicity – the European-



zation of higher education through the 'Bologna process' – has become an overarching policy theme of convergence for both local and international agendas. Yet, this paper provides evidence that evolution of university reform and the politics of segregation have not really improved standards, competitiveness or market-oriented approach of the university. Instead, political use of university have turned it into an arena of clientelism, political control and populism which has undermined any claims of 'Europeanization'.

The cumulative result of almost two decades of 'reform' is an education system that is marred by tensions between multiculturalism and nationalism, state-building and ethnic segregation, and European standards and rampant clientelism and political control. . It is those lines of clash and tension that re-define the emerging role of education in post-conflict Kosovo.

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## (Endnotes)

- 1 The standards included developing sound and functioning democratic institutions, the rule of law, freedom of movement, refugee return and reintegration, economic reforms, enforcement of property rights, dialogue with Belgrade, and the establishment of the Kosovo Protection Corps (KPC) (Del Castillo 2008: 340).
- 2 A look at the history of the Balkans, during the 19th and 20th centuries, suggests “[t]he existence of a link between education policies, dynamics of national identity-formation and those state-making practices that lie at the very heart of violent conflict in this region”: (Strazzari 2000: 12).
- 3 This was very much in line with the former Republic of Yugoslavia (FRY) education system that – unlike the other socialist countries in East and Central Europe – had put in place a strong system of decentralized management and financing of the education system.
- 4 The removal of autonomy was part of constitutional changes that restricted political, economic and cultural rights of the Kosovar Albanian community, derailing their aspiration to the status of federative ‘republic’ (as opposed to ‘autonomous province’).
- 5 Education was supported through a number of arrangements for financing from within (via a system of informal municipality-level tax collection between 3-5 percent that provided for 70 percent of education expenditure) and from external remittances that would cover the rest of the costs. There were no reliable statistics, but it is estimated that around 20,000 teachers and non-teaching staff supported around 300,000 pupils in 400 primary schools, 50,000 students in 65 secondary schools and approximately 10,000 university students in 20 faculties (World Bank 2001).
- 6 Author’s interview with local education expert, AAB University, 1 November 2013, Pristina, Kosovo
- 7 Reconstruction in education went through three institutional phases: emergency and infrastructure projects; curriculum reform and more broadly the designing of an education system that could suit Kosovo needs; transfer power and responsibilities to a provisional government and to an assigned local Ministry of Education.
- 8 “[L]ife-long learning implies an inclusive education and learning model that includes all – children, youth, women, minorities and adults as learners. It also encompasses learning throughout the life-cycle, from pre-primary to retirement taking in formal, non-formal and informal education methods” (MEST 2011, 11).
- 9 An analysis of policy documents and interviews conducted in Pristina reveal that consensus and understanding regarding what is meant by European and Western standards are very thin, especially given the fact that those ‘standards’ vary considerably across European context, not to speak about variation ‘within the West’. Some of the changes that might reflect given standards include “[a] shift from the ‘lecturing’ model to ‘interactive learning’: introducing ‘science’ as a single subject or introducing new subjects such as civics (OECD 2001, 19).
- 10 Author’s interview with official, European Union Office in Kosovo, 25 October 2016, Prishtina, Kosovo
- 11 By 2000, most of the Albanian students and teachers had moved from the parallel system into government schools, while Serbs across Kosovo had now moved from the government buildings into making their own parallel system of education.
- 12 Although reliable data are lacking, the Kosovo Ministry of Education citing sources from its counterpart in Belgrade, reports that by 2011 there were approximately 80 Serbian education facilities in Kosovo with around 1,054 classrooms. As Serbs in Kosovo may be around 7 percent, the Ministry of Education Science and Technology (MEST) estimates that around 30,000 students are enrolled in the pre-university system and approximately 10,000 students are enrolled in the University of Mitrovica (MEST 2011, 43).
- 13 Author’s interview with OSCE official, 24 October 2016, Prishtina, Kosovo

- 14 Author's interview with local education expert, AAB University, 1 November 2013, Prishtina, Kosovo
- 15 The pursuit in Kosovo of higher education in Serbian was institutionalized through a compromise agreement in 2001 between UNMIK and the Serbian Education Ministry.
- 16 The adoption of the Bologna Declaration was the first step undertaken by the University of Prishtina right after the war. As early as in 2000, the University of Prishtina established the Committee for Strategy and Reforms (later known as the Bologna Working Group), a body in charge of implementing the Bologna process (Beqiri 2003).
- 17 Author's interview with OSCE official, 24 October 2016, Prishtina, Kosovo; Interview with Director of Kosova Centre of Education, 28 October 2016, Prishtina, Kosovo
- 18 Author's interview with local education expert, AAB University, 1 November 2013, Prishtina, Kosovo
- 19 In 2010 the university of Prizren was inaugurated, followed by two universities in Peje/Peć (2011), and three more in Gjiilan/Gnjilane, Gjakove/Đakovica and Mitrovica (2013) and the latest in Ferizaj/Uroševac (2014).
- 20 Author's interview with Deputy Minister of Education, Science and Technology, 6 November 2013, Prishtina, Kosovo
- 21 Author's interview with local education expert, AAB University, 1 November 2013, Prishtina, Kosovo
- 22 Author's interview with official, Division of Higher Education, Ministry of Education, Science and Technology, 24 October 2016, Prishtina, Kosovo
- 23 Author's interview with assistant professor, Department of Philosophy, University of Prishtina, 2 November 2013, Prishtina, Kosovo; author's interview with investigative journalist, *Preport*, 10 November 2013, Prishtina, Kosovo
- 24 *Ibid.*





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## **PART II**

# **Democracy, Contention, and Party Politics**



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# Exploring citizens' dissatisfaction with democracy: Trends and factors in Kosovo

**Pranvera Tika**

## **Introduction**

In recent times, either in the Western world either in Central and Eastern Europe, democracy exhibits a paradoxical state of conditions. On the one hand, after the fall of the Berlin Wall the number of countries adopting liberal democracy as the only game in the town grew significantly. Surveys from all parts of the world and also the annual global Gallup survey *The voice of the people* suggest that democracy is universally valued and endorsed as the best form of government in most societies, democratic as well authoritarian (Krastev 2011; Dalton 2004; Inglehart 2002). The liberal democracy as a form of government has more or less become the only legitimate method (Schumpeter 1994) to gain governmental power. On the other hand, however, the signs that democracy is faced with multileveled problems and challenges have multiplied.

First, on a general level, it seems that democracy, as it has been developed in the Western world, is on the focus of many irreversible changes. Some theorists talk about the transformation of the political regime of democracy in 'Postdemocracy' (Crouch 2004). According to this reading, though the regime of democracy maintains the characteristics of the liberal democracies and

‘even if elections continue to unfold and influence governments, the electoral debates are a show firmly controlled by rival groups of experienced professionals in the techniques of persuasion and it covers a limited number of topics and issues, selected by these same groups. The mass of citizens plays a passive, acquiescent even apathetic role, merely reacting to signals it receives. Apart from the performance of the electoral struggle, policy is decided in private by the integration between the elected governments and the elites that represent almost exclusively economic interests’ (2003, 6). In the same line of argument, other theorists such as Salvadori define the contemporary governments not as democracies but as ‘governments with passive popular legitimacy’ (Palano 2015, 12). According to this line of reading, the reasons of the emptiness of the democracy are to be found in the processes of economic globalization that have impacted on the quality of the states’ administration.

In the same vein, an increasing number of indicators and studies have testified to transformations of (normatively) democracy in the New democracies in anocracies or hybrid regimes, or in democracies accompanied by adjectives such as ‘unfinished, stalled, halted, transitional, frozen, weak, fragile’ and populist democracies (Aghi, 2016). Nations in Transit findings have shown a clear trend of backsliding in key governance institutions across this subset of countries (Freedom House 2012). Abuse of power, high rates of corruption, weakening democratic loyalty of elites and political elites, low quality of public institutions, unemployment, and poverty are some of the symptoms of this transformation of democracy.

At the same time, the democratic Western and Eastern political systems exhibit an even distinctive ambiguity (Krastev 2011). Many studies and developments of recent years have shown the uneasiness of the public with the current state of democracy as this is reflected in the dangerous for the democracy of increasing numbers of dissatisfied democrats and decreasing levels of public support towards the democratic institutions such as elections, political parties, and governments, disaffection of the citizens, legitimacy crisis (Diamond and Morlino 2004), the emergence and strengthening of the anti-establishment and populist movements, mistrust towards the political class and the political institutions (Fuchs and Klingeman 1995; Dalton 2004; Norris 2011; Pharr and Putnam 2000), declining turnout at elections, fluctuation in participation (Pacek et al. 2009).

Exactly because of the (re)emergence of these traits of the state of democracy and the consequences over a broad range of processes, the issue of the gap between the formal (realistic) and substantive (normative) form of democracy, emphasized particularly by a specific theoretical stream of the democratic theory, has been re-activated and transformed in an important topic for exploration. A democracy is good, on one hand, when there is a sound functioning of the democratic procedures and, on the other hand, when it manages to incorporate in its policies norms and values such as liberty and equality (Morlino 2012).

The paper sets out to examine the determinants of democratic dissatisfaction and quality of the democratic governance in the newly born state of Kosovo. The main hypothesis is that the assessment of the formal and normative part of democracy is more likely to reflect the levels of satisfaction towards democracy that is produced through the evaluation of the performance of the governance. Therefore, we would expect that citizens would focus on the aggregate indicators of accountability, responsiveness, representativeness of their preferences and demands,

rule of law, performance in improving their lives. In other words, poor performance and distortion of the democratic institutions' functioning leads to profound public dissatisfaction.

The elaboration of the issue of the dissatisfaction in Kosovo begins with a brief overview of the literature on the quality of democracy and dissatisfaction that is an outcome resulting from the poor performance of the political institutions, political class and low quality procedures. Based on survey evidence, the paper demonstrates that the low levels of satisfaction with democracy are a permanent feature of the political system in Kosovo with some only minor fluctuations over time. Hence, the question emerges: is the dissatisfaction an indicator of the outright rejection of democracy as a system or towards the poor performance of the democratic institutions? With a view to provide an evidenced-based answer, the paper will combine the two explaining types of democratic malaise given that the first is presented through data gathered from surveys conducted after Kosovo's independence on 17 February 2008 and the second in interviews with the representatives of civil society organizations in Kosovo. It is argued that a combination of these research methods will be useful in order to draw qualitative insights on the drivers of citizen dissatisfaction and to present the dynamics of the developments in Kosovo through a holistic approach. Data collections from surveys aim to understand the assessment on the level of democracy in Kosovo via opinions of the citizens on some aspects of their political system, such as trends of public trust on the institutions (that is to say the Kosovo Assembly and Government). Additionally, the interviews will offer a qualitative assessment with respect to Kosovo's political system of Kosovo. The interviews were conducted during October 2016 in Prishtina. Finally, the conclusions will summarize the state of play regarding the malaise of democracy through multiple levels as it was crystallized by an assessment of various policy/institutional areas.

## **The concept(s) of democracy and popular dissatisfaction**

When defining democracy, scholars either refer to its classical meaning as government by the people or refer to a set of definitions that approximately culminate to two distinctive, competing theoretical approaches developed in the context of contemporary democracies. The first approach focuses on the structural characteristics of a political system and it is recognized as the procedural (minimal) definition of democracy. The second approach elaborates on the qualitative elements that democracy should promote and usually is acknowledged as substantive or normative form of democracy. Elaborating further on this, in recent times it is possible to identify two differentiated approaches from which the definitions of democracy are based.

The first approach that helps to answer the question of what is a democracy was developed by Schumpeter in his seminal book 'Capitalism, Socialism and Democracy' (1943). Redefining and abandoning the pre-determined goals of the 'classical' democratic theory based on an engaged citizenry and common good, Schumpeter offered a minimalist version of democracy. The minimal definition of democracy as defined also by other authors has at least the following characteristics: universal, adult suffrage, recurring, free, competitive and fair elections, more than one political party and more than one source of information. Thus, according to this approach, democratic life is perceived in terms of the performance of the procedures. In this direction, de-

mocracy can be perceived as a method, a decision-making process devoid of any concentration in substantial outcomes meaning the output performance (Foliti 2016, 26).

The second approach focuses on the conditions that promote an ideal or a substantive democracy. These are approaches that favor broad and maximalist definitions of democracy encompassing 'almost all normatively desirable aspects of political, social and economic life' (McElhenny 2004). For instance, Leonardo Morlino conceives the equality and the liberty of the citizens as the defining features of a good democratic regime. Morlino defines democracy in terms of both the performance of the institutions and the performance from the point of view of values as 'the stable institutional asset that through the institutions and the correctly functioning mechanisms realizes liberty and the equality of the citizens' (Palano 2015, 121). The necessity for combining these two dimensions that ultimately converge to a qualitative democracy derives from the following observations:

- (1) The empowerment of democracy is a moral good, maybe an imperative
- (2) The reforms oriented towards the augmentation of the democratic quality are essential if democracy aspires to attain a vast and durable legitimation that allow for the consolidation
- (3) Even the old, established democracies must be reformed if they want to resolve the inherent problems of dissatisfaction and disillusionment of the citizens (Morlino in Foliti 2016, 27).

Democracy therefore normally requires both dimensions. On the one hand, a descriptive, formal or minimal definition, that contains methods and constitutional guarantees that ensure the democratic character of a regime. On the other hand, the definition for a substantive or qualitative democracy encompassing values, ideological referents that a good democratic system is based on. As Dahl pointed out 'When we talk about democracy there is nothing else that creates major confusion because of the fact that the word 'democracy' refers also to the 'ideal' and to the 'reality' (Palano 2015, 117).

Popular satisfaction is widely considered as a structural component for the sustainability of a democratic political system (Lipset 1959), its development (Almond and Verba 1963; Diamond 1999), its stability and its survival (Diamond 2001). Not only popular satisfaction per se is very important but also the levels at which is reflected. As Fuchs, Guidorossi and Svensson observed "the stability of the representative democracy depends not just on the trend in satisfaction but also in the level of satisfaction" (mentioned in Diamond 2001). Generally speaking, as dependent on the performance of the government and, at a broader basis of the democratic institutions and economic performance (Przeworski 1991), high levels of satisfaction may serve as the bedrock for democratic development. On the contrary, low levels of support pose danger to the democratic system and undermine the basic tenet underpinning legitimacy of the democratic system. The latter is acknowledged under the term 'dissatisfaction' or 'discontent.'

Mariano Torcal (2011, 691) referred to political dissatisfaction as 'a set of expressed attitudes of unhappiness or lack of satisfaction derived from the belief that the government or incumbent

policies and their outcomes are falling short of citizens' preferences or expectations resulting in a negative feeling toward the government and the incumbents.' In other words, political dissatisfaction is 'a general rejection of political objects that do not meet the standards that citizens set for them' (Di Palma 1970). On a more general level, dissatisfaction can be regarded as a reflection of frustration derived from comparing what one has with what one hopes or expects to have (Gamson 1968). Dissatisfaction can be expressed and analyzed through the following interdependent segments of a continuum: the evaluation of policies and their outcomes, the appropriateness of those policies in accordance with their preferences, the role of the political authorities in this process and lastly, the perception of the citizens on the existence of alternative policy solutions. The most important of these attitudes is the citizen's evaluation of the political outcomes. In line with this, this rational or 'instrumental assessment of performance' (Diamond 2001, 6) affects the specific system support of the citizens.

Easton distinguishes between specific support based on people's evaluations about the actions of the political leaders and the performance of the political institutions, and, diffuse support, which refers to the legitimacy of the regime. In other words, political dissatisfaction arises from the cost-benefit analyses of the citizens about the day-to-day activities of the government, political elites and the institutions. Diffuse support of the democratic system is rather an embedded set of ideas part of the socialization process of the individuals; the specific system support may exhibit fluctuations over periods of time, in close dependence to different factors of different national contexts such as the performance of the governments and political class, the prevailing conditions of the economy and last but not least the performance of different political institutions (Diamond 2001, 9).

In a nutshell, political dissatisfaction as a set of critical assessments towards democracy and as an indicator of lack of consensus in regards to the performance of a specific democratic regime perceived in terms of policy output and economic social conditions (Facello 2012) that does not undermine the very functioning principles of the regime (Di Palma 1970) reflects a lack of a specific system support. Moreover, its heartland lies in an evaluation process that comprises the input and the output part of the system. Differently formulated, this recalls the two dimensions of democracy: the procedural and the normative. The input part of the system refers to the 'capacity of the system to receive the demands of the citizens using also the appropriate tools for the effective 'interaction and confrontation' (Facello 2012) in the public sphere. Additionally, the output part of the system refers to the responsiveness as it is being perceived through the performance of the system in specific policy outcomes. Deriving from this analysis, political dissatisfaction can be subdivided in two types: the political dissatisfaction towards the political elites and institutions and secondly, the dissatisfaction expressed towards the policy outcomes or democracy in action (Facello 2012).



## **Institutional and democracy building: Kosovo in recent historical perspective**

The United Nations Interim Administration Mission in Kosovo (UNMIK) established after the war in advance of a decision on the final status of Kosovo, defined at the same time the fundamentals of post-war political order of Kosovo. The UNMIK governing of Kosovo was specified in 2001 with the adoption of the program of the Provisional Institutions of Self-Government (PISG), the ultimate goal of which was to gradually transfer authority to the domestic actors in Kosovo. The crucial elements of the newly-created political order were embedded in the Constitutional Framework adopted by the Provisional Parliamentary Assembly in May 2001. In this new context, Kosovo's provisional institutions were to be assisted by different international organizations, each responsible for a specific policy area. This decisively changed the form of the government and economy. At its fundamental core, the assistance meant that Kosovo would adopt a path to a market economy and western liberal style democracy (Tondini 2007).

The second stage of post-war Kosovo coincides with the period since the declaration of independence in 2008. During this phase, the legislative, executive and judicial authority was transferred from the international peacekeepers to domestic actors. However, the administration of the justice sector is assisted from the EU-led mission EULEX, which functions within the framework of UN Security Council Resolution 1244. The Provisional Institutions of Self-Government were transformed into institutions of governance of an independent state. The fundamentals of the political regime were embedded in the new constitution of April 2008. According to the fundamental law, Kosovo is a parliamentary democracy in which the deputies of the 120-seat parliamentary Assembly are elected on open ballots by proportional representation. The Assembly has a four-year mandate whereas the president can serve up to two five years terms. The Assembly elects the president.

The Kosovo party system, conserving the features of fractionalization of the Albanian political space of the first post-war period (Stojarova 2013) began to demonstrate signs of some elementary stability. Many mainstream ethnic Albanian parties continue to be organized around the cult of the leader and the majority of them, shifting from the first post-war period where the agenda was dominated by issue of independence, present political programs without major ideological differences between them (Freedom House 2016). The smaller in size political parties belong to the minority communities, including Bosniaks, Ashkali, Roma, Goranji, Turks, Serbs and Egyptians.

## **Methodology**

(Dis)-satisfaction with democracy and the factors underlying the phenomenon have been widely examined and used, as have research methods of investigating public opinion (Norris 1999). Despite the fact that (dis)satisfaction with democracy has been researched, there does not exist a common approach to measuring the concept comprehensively. The dominant approach states that the concept is multidimensional (Facello 2012) and thus it is legitimate to use different

tools and methods. This research combines quantitative surveys of citizens with semi-structured interviews with civil society representatives.

Surveys of the United Nations Development Programme (UNDP) conducted in the country regularly measured level of Kosovo citizens' satisfaction with the state institutions, including the Assembly, Government etc.<sup>1</sup> The annual surveys include measurement of attitudinal dimensions of political satisfaction towards the public authorities comprising also the extent of free and fair elections, freedom of expression and media, independence of the judiciary and the existence of a 'watchdog' civil society. They also measure satisfaction with the performance of institutions such as the Parliamentary Assembly, and with the social and economic standards (UNDP Kosovo).

For our research goal and in order to grasp societal perceptions of the situation and the levels of satisfaction towards the democratic system, we decided to conduct semi-structured interviews in person with the representatives of the civil society organizations in Kosovo. According to Walsh and Wiggins (2003, 98), semi-structured interviews are particularly useful for discovering unforeseen information and having in-depth information. With the principal aim to focus on the issue of the dissatisfaction towards democracy, our interviews were concentrated on the identifying the main characteristics of the democracy in Kosovo as it is applied in practice, the representatives views and opinions on the factors of the dissatisfaction, and lastly on their interpretations for the democratic malaise. The far-reaching concept of democracy and its illusory character between reality and perception let us to explore how the representatives of the civil society organizations think of their democracy, including the wide-ranging categories of formal and substantive democracy.

Our interviewees are activists in civil society organizations in Kosovo. They have been selected on the basis of a large variation in the policy field and the activities they cover. Following the aforementioned selection criterion we conducted eight interviews in Prishtina, from 23<sup>rd</sup> to 29<sup>th</sup> of October 2016.

Our data analysis is based on the principles of the qualitative content analysis (QCA) which consists of 'the subjective interpretation of the content of text data through the systematic classification process of coding and identifying themes or patterns' (Hsieh and Shannon 2005). Afterwards, we started to construct our coding frame with categories built up through a concept-driven and data-driven process. Having transcribed all the interviews, we created a coding scheme from the assembled data as well as from the political dissatisfaction's concept.

As examined throughout the paper, from the coding of the interviews we constructed a dependent variable, dissatisfaction, consisting of three basic indicators. From this process we created two general concept-driven indicators (deductive) as analyzed in the section on the theoretical elaboration of the concept. These indicators refer to firstly, the dissatisfaction towards the public authorities, and secondly, the dissatisfaction towards the performance of the government. Except for the indicators derived from the main core of the concept of dissatisfaction, our empirical data produced another sub-component of the main concept (inductive): general dissatisfaction towards democracy that corresponds to the diffuse support coined by Easton. In line with our outlined research goal after de-constructing the main concept into indicators

and analytic categories we set about exploring the determinants of democratic malaise. The exploration of democratic malaise resulted in the outlining of specific factors responsible for the dissatisfaction.

These factors, as referred to by the majority of our respondents, are a combination of deficiencies in the procedural and qualitative dimensions of democracy as outlined in the current situation of democracy in Kosovo. The factors were evident in the discourse of the interviewees, thus reflecting the dimensions of democratic quality. The principal categories of these factors that in principle respond to the normative definition of the democracy (Morlino 2014, 4) are identified in close connection with the procedural definition of democracy. Thus we constructed a typology of factors responsible for the low quality of the democracy and therefore for the dissatisfaction of the citizens in the basis of these specific dimensions.

## **Levels of dissatisfaction in Kosovo: Survey and interview findings**

Data presented by the UNDP, predominantly for Kosovo's post-independence years, show that citizens hold a highly negative picture of the evolution of their country's democratic life. However, when asked to evaluate the satisfaction towards the public institutions, respondents were slightly more satisfied in 2016 in comparison with the previous years. They expressed the lowest level of satisfaction with the judiciary (16.9%) as compared with other state institutions. The only institution that performed well is the presidency, which has rather limited powers, and which scores 45.7%. Additionally, Kosovo citizens' skepticism extends to other state institutions. A large proportion of the respondents expressed a low degree of trust in the Kosovo Government over the years following Kosovo's independence. Public trust in the Kosovo Assembly has declined as well.

The low level of trust in the judiciary is a consistent and persistent feature in the negative perceptions of the citizens and it is closely connected with the problem of corruption. The Kosovo Constitution dedicates a special chapter (VII) in which the articles 102-108 establish the ways in which the judiciary will function. The judicial system of Kosovo is also assisted by the International Community through EULEX judges whose competences are regulated with the law 03/L-053 (Osmanaj 2014). The Mission's central aim is to 'assist and support Kosovo authorities in the rule of law area, specifically in the police, judiciary and customs areas' while 'retaining some executive responsibilities in areas such as war crimes, organized crime and high-level corruption, as well as property and privatization cases.'<sup>2</sup>

Despite this assistance the effective implementation of the rule of law is hampered considerably. The judicial system is highly affected by the interference of the political class and by corruption, which according to Amnesty International is 'rampant'. The economic resources allocated for the functioning of the judiciary are deemed insufficient to secure the sound functioning and implementation of the rule of law. The lack of political will to support an independent judicial and prosecutorial system through the allocation of sufficient budgetary resources is considered an indirect influence of the political elite to control the system.

Also, with regard to corruption, a culture of impunity is quite widespread, with particular emphasis in the continuous failure, even by EULEX, to initiate investigations and to combat high-profile corruption. The existence of groups and individuals who are above the law and to whom laws do not apply bears a negative impact in the decrease of the public trust in the justice system. As is shown in Table 1, Kosovo citizens' satisfaction with the work of the state prosecutor demonstrate the lowest level of trust in comparison with other state institutions, with only 16,9% for 2016.

On the other hand, there are problems in the work of law enforcement institutions, especially the courts. Thus, despite the existence of innovative laws there is a growing number of cases pending and transferred into the following year over and over. The situation can be inscribed in what has often referred by interviewees as a low institutional capacity to discourage the above-mentioned phenomena.

Though institutional actors have contributed to the state-building process, Kosovo institutions have actually been underdeveloped, especially the justice system. Those responsible are both international and local: in recent years the international community has been responsible for the justice system, and citizens do not trust the court's decisions. They feel that the judiciary is subject to outside influence, that overall it is unfair and that there is a high degree of political interference.

**Table 1. Kosovo citizens' satisfaction levels with main executive, legislative, and judicial institutions.**

Political Indicators		Mar 07	May 08	Jun 09	Apr 10	Nov 10	Jun 11	Oct 12	Apr 13	Apr 14	Nov 14	Mar 15	Sep 15	Apr 16
Satisfaction with the President	President	52.0%	74.0%	61.7%	54.9%	30.8%	54.1%	47.1%	45.1%	48.8%	40.7%	30.2%	30.4%	45.7%
Satisfaction with the executive	Central Institutions	30.5%	46.9%	53.1%	29.2%	25.1%	32.6%	27.2%	27.0%	44.2%	19.3%	18.1%	17.3%	17.8%
	Prime minister	54.0%	72.0%	53.8%	36.4%	30.7%	37.6%	27.3%	30.4%	48.5%	34.1%	23.6%	14.6%	18.3%
Satisfaction with the legislative	Parliament	31.0%	51.4%	53.2%	34.1%	32.1%	41.0%	32.1%	32.3%	46.5%	16.1%	19.3%	19.9%	17.3%
	Speaker of parliament	35.4%	56.5%	51.6%	36.0%	33.3%	60.9%	44.7%	45.8%	57.8%	23.3%	20.1%	19.8%	24.3%
Satisfaction with the judiciary	Court	20.0%	21.0%	32.7%	27.2%	18.5%	26.9%	24.3%	16.7%	37.5%	22.8%	17.2%	13.9%	18.4%
	Prosecutor's office	22.7%	22.7%	31.7%	26.9%	15.1%	20.0%	15.0%	17.7%	38.1%	21.0%	17.0%	12.8%	16.9%

Source: Public Pulse Reports

Citizens' declining trust in the public authorities extends beyond Kosovo' Judiciary system. A separate section in the surveys conducted by UNDP evaluated trust in the legislative and executive bodies, which is low. Their performance is perceived as weak. Although some institutions have displayed some gains in public trust over time, the general downward trajectory is clear.

In other words, the majority of citizens in Kosovo do not trust politicians, while, as shown in figure 3, they are skeptical of political parties and elections as a driving force towards changing the status quo in the country.

Considering the dimension of skepticism towards the political parties and consequently towards the politicians, the main problem is identified in relation to the lack of open procedures and fair competition within the political parties themselves. Similar to the most common trend in the majority of Western Balkan states, the lack of competition is defined as a central problem of the representative democracy. Echoing the elaboration made by Schumpeter, the competition would drive to the formulation of different perspectives and boost the citizens' participation. Within the realm of the perceived distortion of the role and functions of the political parties we

can distinguish two subcategories of problems: problems with the representative function of the parties (popular democracy) and problems with their procedural or institutional functions once they are in the government (constitutional democracy). For the latter we borrow Bartolini and Mair's (2001, 340) classification of different political parties' functions. These include the function of representation as a process of interest articulation, aggregation, policy formulation and the procedural function, which consists of their organizational aim to be integrated in the state and the government. A fair function of the political parties requires the sound balance of the two dimensions above, starting even from the condition of internal democracy in order for all parts to be included.

Political parties have not been able to democratize internally, which is a Balkan trend. No parties have held internal elections for party leadership, and through the party from the local level to the national there is a lack of determinant rules. Parties race between themselves, but do not have internal races, and this paradox explains why democracy is so difficult to establish in Southeast Europe, and especially. Parties spend more energy creating politics rather than policies. Citizens are thus unsatisfied because they are unable to participate in the parties' policy-making agendas. Decisions are made by only a few, and then not communicated to other levels, so the parties are not seen positively

Concerning the citizens' perception of the procedural functions of the political parties, what conditions their negative stance is the fact that parties are only government or state-oriented and don't aim to represent the interests of the electoral body. These developments inside the parties bear an impact in their functions and image in the wider public. In the conventional understanding of democratic governance as a rule 'for the people, by the people,' political parties are considered to articulate and aggregate the interests of the society and then to translate them into public policies. This process, however, is seen by the citizens of Kosovo as distorted from the political parties, whose aim is to become part of the state while neglecting their representative role. Paraphrasing the words of Peter Mair, political parties in Kosovo have become agencies that seek to govern and not give voice to the people (Peter Mair 2006).

There are also deep-rooted cultural reasons, however, for the tendency of politicians to retreat from civil society once in government and/or institutions. In the first place, there is a so-called lack of institutional adaptability. In Kosovo we only speak of consequences, and the political culture is quite negative. The main problem is linked to political parties, which in Kosovo are considered as a means to obscure relations with the public, which is consequently reflected in institutions, in parliament and in the government. Through the failings of the party to provide a synthesis between their two functions and through the dividing space being opened up with the citizens derives a growing dissatisfaction and low of trust for the legislative body i.e the parliamentary Assembly. Conceived of as not representing their interests and being weak as there is no inter-institutional dialogue, the citizens hold the view that they are underrepresented. At the institutional levels, the citizens' voices are not heard after the election, and the institutions do not consult with either the parliament or the government. The reason for this gap may be that major parties rely on a stable, reliable electoral body for them to remain in power.

Furthermore, there is a common observation from our interviewees that the government lacks in accountability-effectiveness and responsiveness. The principle of accountability often is de-



defined as an obligation of elected leaders to provide and justify information about their 'political decisions when they are asked by citizen-electors or other constitutional bodies' (Morlino 2014, 5). It is of vital importance to democracy, as it 'makes the abuse of political power less likely, while at the same time helping to empower governments to serve the ends that democratically elected governments are legitimately asked to pursue' (Burnell and Gerrits 2011, 100). As interrelated notions and processes, for a government to be effective a sine qua non condition is to be accountable. Decisions and various policies are democratic when they are subjected to public scrutiny through different channels of communication. The absence of accountability can be observed mostly at the inter-institutional and electoral level. At the institutional level, in Kosovo, the issue of absence of accountability is reframed at the inter-institutional and electoral level.

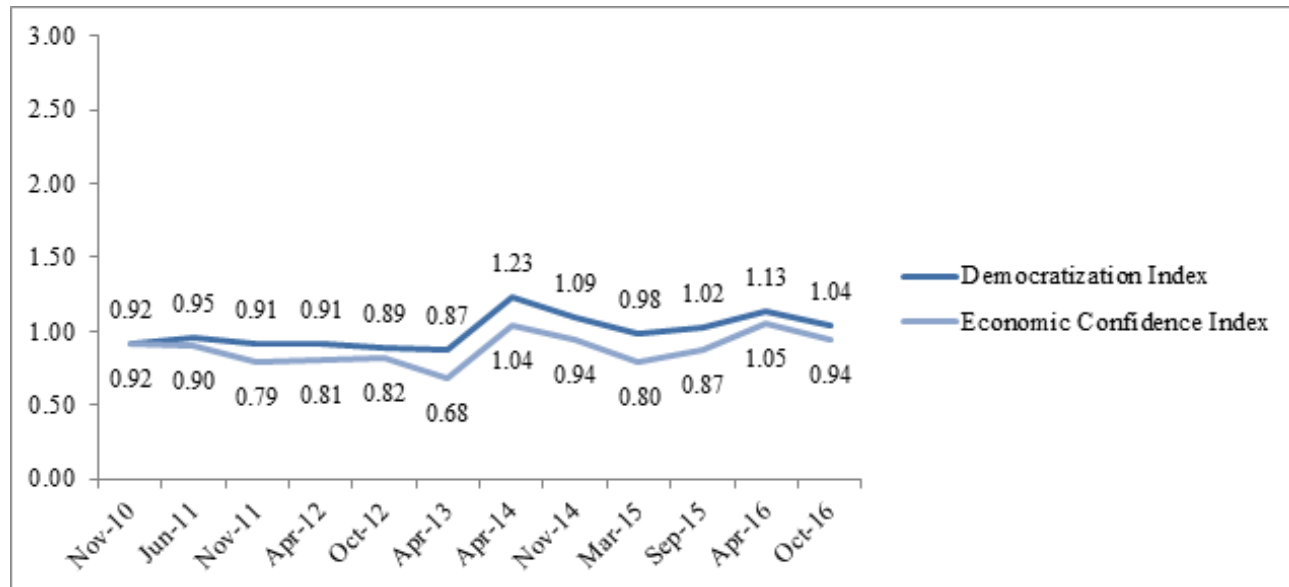
More concretely, a common observation from our interviewees was that there is a lack of institutional communication and insufficient mobilization of resources to fulfill the promises delivered during the pre-election campaign. They also noted a lack of the value of the general public good from the actions and policies adopted. The majority of respondents believe that government authorities especially are opaque and do not work for accountability in the dialogue with Serbia and the border demarcation with Montenegro. This approach is notable in the government's reluctance to include other institutions, and in its unwillingness to establish an all-inclusive dialogue with domestic actors. This stance implies lack of transparency and indeed the sidelining of the parliament itself.

The Kosovo Parliament is not heard often, for the fairly simple reason that may be common to the region: that the majority decides in almost all cases. The system is democratic, but the parliament has not been vocal in many processes in Kosovo, especially in the dialogue with Serbia mediated by Brussels, which has been ongoing since 2010 to resolve practical and political issues between the two countries. The parliament is not a beacon of democracy because it does not require accountability from the government ministers. Little has been done to develop a proper model of democracy in Kosovo, which is understandable to some extent since Kosovo has been through a difficult state-building process, lacks a basic culture of democracy, is isolated from international actors due to non-recognition by five EU member states, and because of external challenges. In both cases, there was a clear lack of transparency between the citizens and the parliament, with different lobbies and civic agencies, though I don't exactly know why. Many processes in Kosovo are developed this way, with a lack of participation. Kosovo does not respond – the parliament has to find its voice to hold the politicians and the government accountable.

Furthermore, the lack of government accountability and responsiveness is expressed towards its performance in different sectors of society and economy. Though the economic performance is usually subject to periodic fluctuations not directly controllable by the central government (Facello 2012), high levels of incongruence between policy preferences and the specific political outcomes in these domains produce dissatisfaction. Particularly for the state of economy, as figure 2 shows, the assessment of the economic performance demonstrates a direct linkage with the Democratization Index from which we derive the satisfaction towards democracy and the perceptions on the output of the political system. Therefore, this indicates a positive correlation between satisfaction towards democracy and assessment of the economic situation in line with the increased poverty.



**Figure 2. Democratization and Economic Confidence Indices**

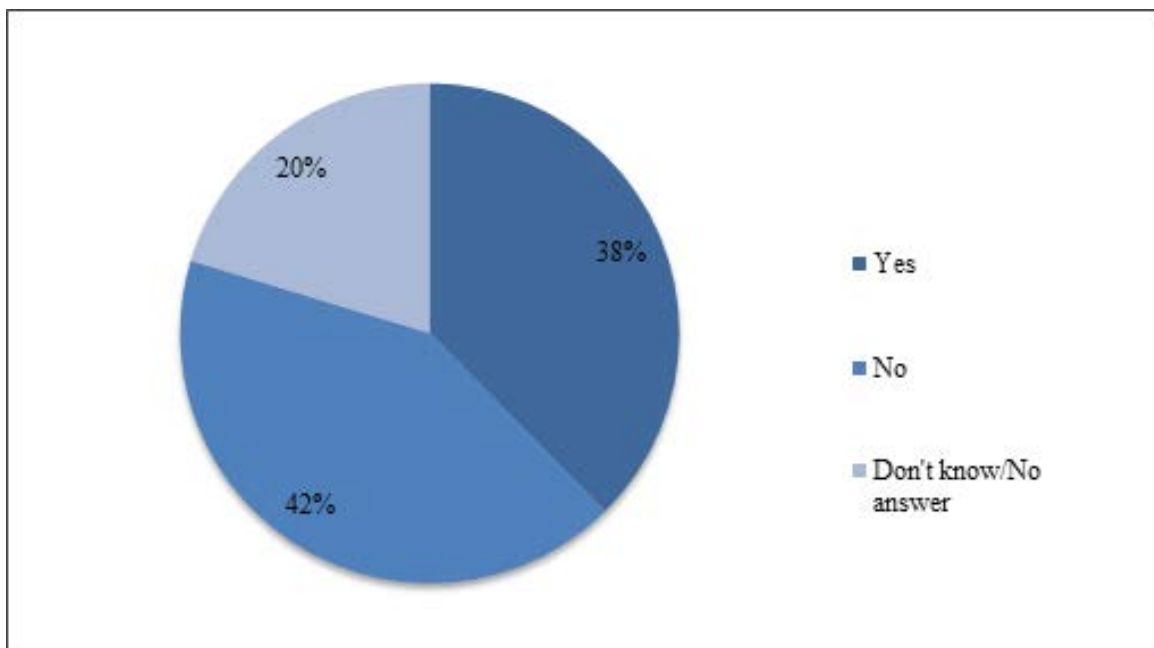


Source: Public Pulse

This dissatisfaction is reflected vis a vis a host of unresolved social and economic issues. The poor management and non-solution of acute problems was reflected in the huge migratory flows of the Kosovo citizens towards the EU member states from 2014 to the present. This emigration flow, according to our respondents, was fueled by a lack of employment opportunities and increasing poverty. The structural factors for this are, firstly, a very gloomy economic outlook. Secondly, a deep crisis of trust between citizens and the institutions bound together with non-responsiveness of the institutions to address the problems. Another, more importantly, structural problem, for having a major impact on the levels of unemployment is the lack of educational training programs for specific jobs, such as in the natural sciences. Furthermore, the problem is magnified due to the underdevelopment of the private sector. The privatization process initiated by the international community has not brought the sound development of the private sector.

Many state companies have been sold, but this has not brought economic development or created jobs, which has produced widespread dissatisfaction. Furthermore, the business climate is not favorable for direct investments, and many interested in investing left Kosovo due to pressure from various interest groups, which has also led to enormous citizen dissatisfaction. These problems affect also the perception of the citizens towards the importance of voting. The stagnation of the economy and the persistence of the problems have an eroding impact on the perceived significance of the election process, as shown in Figure 3. Economic issues, education, and health are not being addressed by politicians, and elections do not create any change.

**Figure 3. Do you think that vote can change the situation in Kosovo?**



Source: Public Pulse

## Conclusions

This study provided qualitative insights on the determinants of citizen dissatisfaction with democracy in Kosovo. Several conclusions can be drawn from our analysis of the permanent levels of dissatisfaction. First, we showed that the increased levels of the dissatisfaction cannot be explained only on the basis of the procedural form of democracy. Rather, they are product of problem with two interrelated parts of the democratic system. The first, which corresponds with the procedural dimension, demonstrated as acute problems the disrespect for democratic practices and procedures primarily by political actors. Deriving from this, other significant problems are observable: the lack of internal democracy in the political parties, problematic functioning of the Assembly, lack of accountability and rule of law. This array of problems has been proven insofar not fruitful for the development of good politics and for the advancement of the interests of Kosovo towards its relationship with the European Union. The high levels of corruption have proven to be a serious obstacle for Kosovo in the process of the visa liberalization. The vicious circle of political stalemate, in which Kosovo entered may be unproductive and even dangerous for its future.

The second part of the democratic system, which coincides with the quality of democracy, resulted, also, to be deficient mainly in terms of the provision of equal access to public resources such as the employment, healthcare, and education. Towards this negative direction contributes also the lack of responsiveness of the government to include civil society actors in the decision making process as the link with the greatest proximity to the preferences and needs of the citizens. All of our respondents do not question the importance of democracy as a type of

government, and furthermore, as a tool towards satisfying the objectives of equality and freedom in general. On the contrary, they vehemently question the way democracy actually works in Kosovo, which was is affected by the previous communist regime and the war.

Our analysis showed that the governmental policies only partially reflect the main concerns of the citizens, especially in the field of the economic development and creation of job positions. The analysis points to the conclusion that the low levels of satisfaction are predominantly a product of endogenous factors in Kosovo. If the political actors would behave in a more responsible way towards the institutions and the citizens, the satisfaction would have been in high levels. In this way, the legitimacy of the political class would have been stronger. Furthermore, levels of cynicism and potential radicalization of the people as dangerous facets for the development of democracy would have been low. All in all, the analysis showed that the procedural as well as substantive dimensions of democracy are important and indispensable for strengthening the position of one country either inside, towards its citizens, or abroad toward international organizations.

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## (Endnotes)

1 The Kosovo Pulse Polls and Early Warning Reports are funded by the UN Development Program and USAID. The surveys are based on face-to-face interviews that rely on randomly selected samples. These surveys use the overall answers from the all the various respondents in Kosovo. The Kosovo Serbs either decline to answer questions about the Kosovo institutions, or respond their lack of interaction and satisfaction with them.





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# **People's Power Hits Glass Ceiling? State-building and Contention in Contemporary Kosovo**

**Alma Vardari**

## **Introduction**

The European Union (EU) has played a crucial political, economic and social role in shaping the agenda of the Southeastern Europe, driven mainly by the principles of liberal democracy and free-market economy. Yet, the lack of focused research on the region's international statebuilding and local contention is a concern for those who care about the consolidation and strength of democratic processes in post-war societies. This research seeks to examine how the EU as a statebuilding actor explains and interprets the protest events occurring in Kosovo. While previous studies have assessed the EU's role in Kosovo's institution building, security sector, economic liberalization and civil society (Caplan 2004; Chandler 2006; Muehlmann 2007; Ker-Lindsay 2009; Silander and Janzekovitz 2012), scholars have not yet adequately addressed the diffusion of EU's ideas and frames, in regards with the local protest events, (often targeting the EU and its power holders), in spite of the obvious correlation between the two. Hence, this research aims to answer the following question: How do EU agencies seek to explain, frame and manage the

While EU seeks to promote peace and democracy, when it comes to statebuilding in the Western Balkans, it faces trade-offs. I expect the discourse of security and stability (Vardari-Kesler 2012) to foster the prism through which EU perceives the local contention domain, interpreting it as a threat to democratic statebuilding. Based on my analysis of the EU's statebuilding discourse in contemporary Kosovo, my paper shows that the EU agencies 1) silence and marginalize local critical voices and challenging actions, and 2) delegitimize and discourage citizens' political participation that opposes the current national and foreign power orders. Undermining local dissent for the sake of stability and statebuilding (Skendaj 2014, 164-7), has direct and grave implications on democracy building in Kosovo. My argument presents a critique of the EU discourse, which repeatedly disregards and delegitimizes local struggles, undermining thus the power of the people in Kosovo.

This research seeks to take advantage of available data to investigate the relationship between the international statebuilding discourse and the local contention politics in contemporary Kosovo. Despite their availability, there is a lack of high quality and high visibility research that takes advantage of these data to focus on the local contention politics and the EU statebuilding discourse. Discourse analysis provides a suitable method for this research, for it can help to shed light on the processes involved in the construction of the EU's interpretations and the modes in which it seeks to explain and manage the local events in a given national and regional contexts. Focusing thus on the EU framing of protest events, as depicted in the EU produced documents, allows us to pay attention to the politics of meaning, and the modes used by actors to influence other actors' perception and assessment of the events. Therefore, this paper's contribution is twofold; on one hand it converses with the academic literature on the EU discursive power, while on the other, it aims to identify practical implications for practitioners who aim to build democratic societies and increase active political participation in Kosovo.

## **Conceptualizing the three-dimensional approach to Discourse Analysis**

Focused on social problems, this method studies the role that discourse plays on the reproduction and transformation of social identities, social relations, and the constitution of systems of knowledge and belief (Fairclough 1992; van Dijk 1997; Gee 2014). Perceiving discourse as "a particular way of constructing a subject-matter", Fairclough proposes a three-dimensional approach to discourse analysis (1992; 128). Grasping it as a text, discursive practice and social practice, enables to tie together language usage, political thought and social change (1992, 62). Thus, the discourse analysis framework offered in this research, operates on three levels; 1) "analysis of discourse practices by focusing on intertextuality, 2) analysis of text, and 3) analysis of the social practice to which the discourse belongs. Each level brings in its own conceptualization angle, and sheds light on a different perspective of the relationship between language, knowledge and social practice.

Starting with the concept of intertextuality, which refers to the “productivity of texts, to how texts can transform prior texts and restructure existing conventions (genres, discourse) to generate new ones” (Fairclough 1992, 102) analysis of discourse acknowledges that the practices of this productivity and textual creativity are not open to all. These practices are “socially limited... and conditional upon relations of power” (Fairclough 1992, 103). Heterogeneity and ambivalence are two main interrelated features of texts. The extent to which various elements borrowed from other texts are incorporated in a particular one, may determine the possible coexistence of meanings, imposing a range of ambivalent interpretations. Using intertextuality in discourse analysis is useful since it allows us to examine the discourse representation of the voices of power, and the ways they constitute ‘social identities’ through the intertextual network.

The second level of discourse analyses focuses on the text and its diverse linguistic features, as explanatory mechanisms adding to our understanding to how the discourse practices define and restructure social identities and ‘selves’ associated with certain domains or institutions. One way of observing and making sense of concrete social interactions and construction of social identities, is through the study of interactional control features like: topic control, turn-taking, setting and policing agendas, modality and more (Fairclough 1992, 152-166). Social and power relations are embedded and thus reflected in the interactional control conventions, permitting us to make claims about the performance and mediation of social relations.

Looking closely at the text features provides us with insights as “to the ideational function of language and to ideational meanings – to constructing social reality” (Fairclough 1992, 169). To explore the role of discourse in constituting, contesting and reconstructing systems of knowledge and belief, various analytical topics are offered, among them: transitivity, word meaning and metaphor. The rationale of analyzing transitivity (the ideational dimension referring to types of processes and participants linguistically involved in a clause) is to identify what “social, cultural, ideological, political or theoretical factors determine how a process is signified in a particular type discourse or in particular text” (Fairclough 1992, 180). The presence or absence of agency, active or passive voice, exposed or hidden relations, they all reflect the role of the political and ideological choice. In the same vein, choice of how to use a word is not of an individual nature, as words’ meanings reveal the social and cultural processes of production and contestation, turning their “meaning potential” into sites of hegemonic struggles. Metaphors’ examination in this sense is another conceptual tool, providing vital insight on the ways how a “particular domain of experience is metaphorized... within and over discourse practices” (Fairclough 1992, 195). Of course, the description of the analytical features is dialectically related to the interpretative choices of the reader (lay person/researcher/official) highlighting the mutual and merging nature of their relationship.

The final level of this approach deals with the examination of the social practices to which the discourse belongs. Put differently, this level is concerned with the transformation of order of discourse rather than the change in the discursive events. Fairclough identifies three major tendencies: ‘democratization’, ‘commodification’ and ‘technologization’ of discourse (Fairclough 1992, Ch. 7). While ‘democratization’ refers to the “removal of inequalities and asymmetries in the discursive and linguistic rights” (Fairclough 1992, 201), ‘commodification’ denotes “the colonization of institutional orders of discourse, and more broadly of the societal order of discourse, by discourse types associated with commodity production” (Fairclough 1992, 207).

Whereas ‘technologization’ indicates according to Fairclough the colonization of the discursive practices by the economy, reflected in discourse technologies like interviewing, teaching, counselling and advertising (Fairclough 1992, 215-223). The overall goal of the analysis is to identify “features, patterns and structures which are typical of certain types of discourse, restructuring tendencies in orders of discourse, and ways of using these conventional resources which are specific to the sample” (Fairclough 1992, 231). The next section will briefly introduce the body of the research data and the rationale behind its selection.

## Corpus of data research

Since the goal of this research is to explore the constitution of the EU’s rapport with local contention in Kosovo, the corpus of data builds upon the relevant documents produced by the EU agencies, and delivered to both national institutions and printed media in the years of the local protests 2013-2015. Two reasons stand behind the choice of this period; the first is the termination of the Western supervision of Kosovo’s independence, known as the closure of the International Civilian Office by the end of 2012.<sup>1</sup> The research explores how the EU perceives and interprets local contention politics in independent Kosovo, explicitly after the *de jure* international acknowledgment of its sovereignty. That is crucial for the social and political conditions that shape and are shaped by discourse practices. The second reason is the wide range of contentious events characterizing this period, in terms of both collective claims (electricity’s high rates<sup>2</sup>, students’ protests against corruption in academy<sup>3</sup>, normalization of relations with Serbia<sup>4</sup>, resignation of Minister Jablanovic and privatization of Trepca<sup>5</sup>, anti-governmental rallies<sup>6</sup>) and action strategies (demonstrations, sit-ins, street theatres, protest waves, tear-gas protest in the Assembly<sup>7</sup>). Examining the EU’s reading and framing of such a diverse contentious spectrum contributes to a more systematic and thorough understanding of the EU’s discursive power.

Hence, the discourse samples comprising this research’s data cover the EULEX announcements, EC communications, EU-Kosovo partnership documents and Quint’s statements in the local media. In addition, to enhance the corpus of data and to trace the EU’s discursive formation as impacted from the local EU representatives, during my field visit, I have conducted five in-depth interviews with senior EU officials currently residing in Prishtina, and several informal talks with key local academics, journalists, and senior activists. Expectantly, adding their subjective interpretations to the institutional discursive formation will enrich the understanding of the discursive process. To supplement the data, I have included as well the UNDP Kosovo’s surveys and other regional policy reports, collected before and during my field research in Kosovo. Given the significant influence and the continuous involvement of the EU agencies in Kosovo, the above-mentioned texts (including those produced through the interviews) constitute a rich and adequate source in which the EU’s discursive authority can be located, examined and evaluated.

## Mapping local contentious events and the EU position towards them

This section of the paper operates on two levels; the first analysis the EU discourse practices as reflected on the corpus of the EU reports, progress reports and interviews that I have conducted in Kosovo, through the analytical tool of intertextuality. The second level, seeks to create an initial database (Fig. 1) on the contention events occurring in Kosovo in the years 2013-2015, drawing on the information recorded by Balkan Investigative Reporting Network, UN Security Council monthly reports on Kosovo<sup>8</sup> and online international and local press agencies. In addition, this part tracks whenever possible the response of the EU agencies in Kosovo towards these contentious events, and the mode of reference as supporting or denouncing the local dissent (Fig 2). The second database is based upon the information found at the former journalistic sources, the websites and press releases issued by the embassies of the Quint's members, as well as the EULEX and the EUSR websites.

### Intertextuality and hegemony in the EU' statebuilding texts

The analysis in this part is based mainly on the reading of the EU's statebuilding corpus of work regarding Kosovo. More explicitly, they cover the EC Progress Reports of the respective years, EULEX online documents and my interviews with European senior diplomats in Prishtina. As explained in the theoretical introduction, intertextuality refers to the productivity of texts as inherently grounded on past texts. As such, this textual tradition holds the capacity to restructure existing discourses, and integrate new texts within the prevailing corpus. The discursive structure represented in the examined body of data draws on prior ones, such as: the Liberal discourse of international statebuilding, perceiving sovereignty as capacity (Zaum 2017; Chandler 2006, 2010), Europeanization discourse building upon normative power theory (Manners 2002, 2006; Hill 2001; Grabbe 2001) and the EU horizon of the Western Balkans' discourse (Miall 2007; Noutecheva 2009; Tocci 2008; see also Westerns Balkans and EU enlargement Report 2015<sup>9</sup>). Hence, by examining intertextuality we can enhance our understanding of the political and social changes within the EU's discourse.

Looking at the Progress Reports of Kosovo (2013-2015), produced every year by the European Commission officials, one can discern two dimensions of intertextuality: horizontal and vertical intertextual relations (Kriesteva 1986a in Fairclough 1992, 103). The horizontal intertextuality refers to the 'dialogical' interactions that the progress reports texts constitute with other EU texts such as: Copenhagen criteria for EU integration, European Parliament's reports, UN Secretary-General reports on Kosovo, EULEX mandate, and others of this sort. These intertextual relations embody the intricate relationships the text has with prior texts and discourses represented in them.

On the other hand, the vertical intertextuality points at the 'hierarchal' interaction that the texts of progress reports establish with subordinate texts such as: the Stabilization and Association Agreement signed between the EU and Kosovo, Agreement of Normalisation of Relations, Action Plan on cooperation with civil society (2013-2017), the Association/Community of Serb majority municipalities agreement, the new anti-corruption strategy and the action plan (2013-

2017). These intertextual relations constitute a “natural chain” which continuously links Kosovo’s texts to the EU’s discourse of integration, and incorporates them into the corpus and logic of the EU statebuilding.<sup>10</sup>

Hence, following this line of thought, we may trace how contentious events are represented in these annually textual productions by locating and examining the criteria of “Human Rights and the protection of minorities”. The subsequent illustrating example is taken from the Progress Report 2013:

*Freedom of assembly and association continues to be exercised in Kosovo. During the reporting period, there have been several public protests and gatherings against the government and assembly decisions. Public and opposition movements are free to express their discontent with government policies.*<sup>11</sup> (emphasis in original)

In the same vein, the text of the progress report 2014, under the same category of “freedom of assembly and association” diminishes the local opposing actors and their ongoing political participation into abstract “public protests against various levels of government”.<sup>12</sup> Worth noting is the framing of all collective protests as belonging to or instructed by the opposition parties, and the lack of concern about their grievances or further exposure of their challenging agendas. However, when we examine the EC Kosovo Report 2015<sup>13</sup>, already in the introduction, a new textual shift appears referring to the waves of protests as follows:

*There has been increased polarisation between government and opposition. Members of the opposition have been involved in incidents of violence against the government, criticising it for its recent decision on the Specialist Chambers, the dialogue agreement with Belgrade, and the border demarcation agreement with Montenegro.*<sup>14</sup>

Intriguingly, a second representation of the local contention, reappears in the same report under the category of ‘Democracy’ and not ‘Human rights’ as in the previous ones:

*The delay in establishing a new Assembly following the 2014 elections slowed down Kosovo’s reform process. Violent obstructions of recent plenary sessions by members of the opposition have adversely affected the functioning of the Assembly. Such actions go against European values. The Assembly needs to become more efficient and to comply with its own rules of procedure. It should urgently appoint competent members to regulatory and supervisory bodies to ensure the proper functioning of the state administration, on the basis of merit, transparent and non-political selection processes.* (ibid, 6)

The intertextual relations presented in between this two passages, bring to the reader’s attention two EU key-framings; first, the growing local contention is encapsulated as “increased polarisation between government and opposition”, entirely disregarding the popular dissent reflected in constant and massive protest.<sup>15</sup> Second, both texts imply that this ‘increased polarization’ is due to the “incidents of violence against the government” enacted by ‘members of opposition’, resulting in the “violent obstruction of recent plenary sessions”. The EU report not only strongly states that “Such actions go against the European values” but also instructs ‘urgently’ the establishment of regulatory and supervisory bodies” to “ensure the proper func-



tioning of the state administration”.

The framing of local contention as a threat to national governing institutions due to its ‘violent’ nature is present as well in the discourse of the EU diplomats working in Prishtina. Dinka Zivajl, the spokesperson of EU office in Kosovo shares her opinion on the current situation:

*Kosovo is a young democracy and that means a lot of work. We have cases of instability like the interruption of plenary sessions in Assembly by the opposition, and that requires a lot of political willingness and commitment. We have also started to work on the SAA agreement this April, the first contractual agreement between Kosovo and EU. On the other hand there is a positive pro-EU approach in Kosovo that makes it easy for us to work on the progress of the SAA agreement.*<sup>16</sup>

Evidently, the relationship between intertextuality and hegemony is important since the possibility to produce this text is not available to all. Indeed, it is “socially limited and constrained, and conditional upon relations of power” (Fairclough 1992; 102). The abovementioned examples illustrate how intertextual processes frame and reconstruct local contention, as a pervasive hegemonic struggle within the EU discourse. The degree of openness of the EU discourse of statebuilding to processes of contestation is a crucial topic calling for further research.

### **Charting local contentious events and the EU response**

While the previous part analyzed the body of texts produced by EU agencies and the intertextual relations affecting political and social changes in Kosovo regarding the perception of political participation, this part seeks to chart the EU response to the protest events.

Figure 1 presents the protest events occurring in the period between January 1<sup>st</sup>, 2013 until December 31, 2015, and the number of protesters participating in each event or wave of protest. Such are the cases of protests against the Energy Corporation of Kosovo (KEK), student’s sit-ins at the Prishtina University (PU), the protests against the Serb Association/Community agreement (as envisaged by Ahtisaari, part of the normalization agreement has been the establishment of a Serb entity within Kosovo<sup>17</sup> resulting in frozen deal with Serbia (Nov. 2015)<sup>18</sup>, and more.

**Fig. 1: The contentious events & the number of participants in each event, 2013-2015**

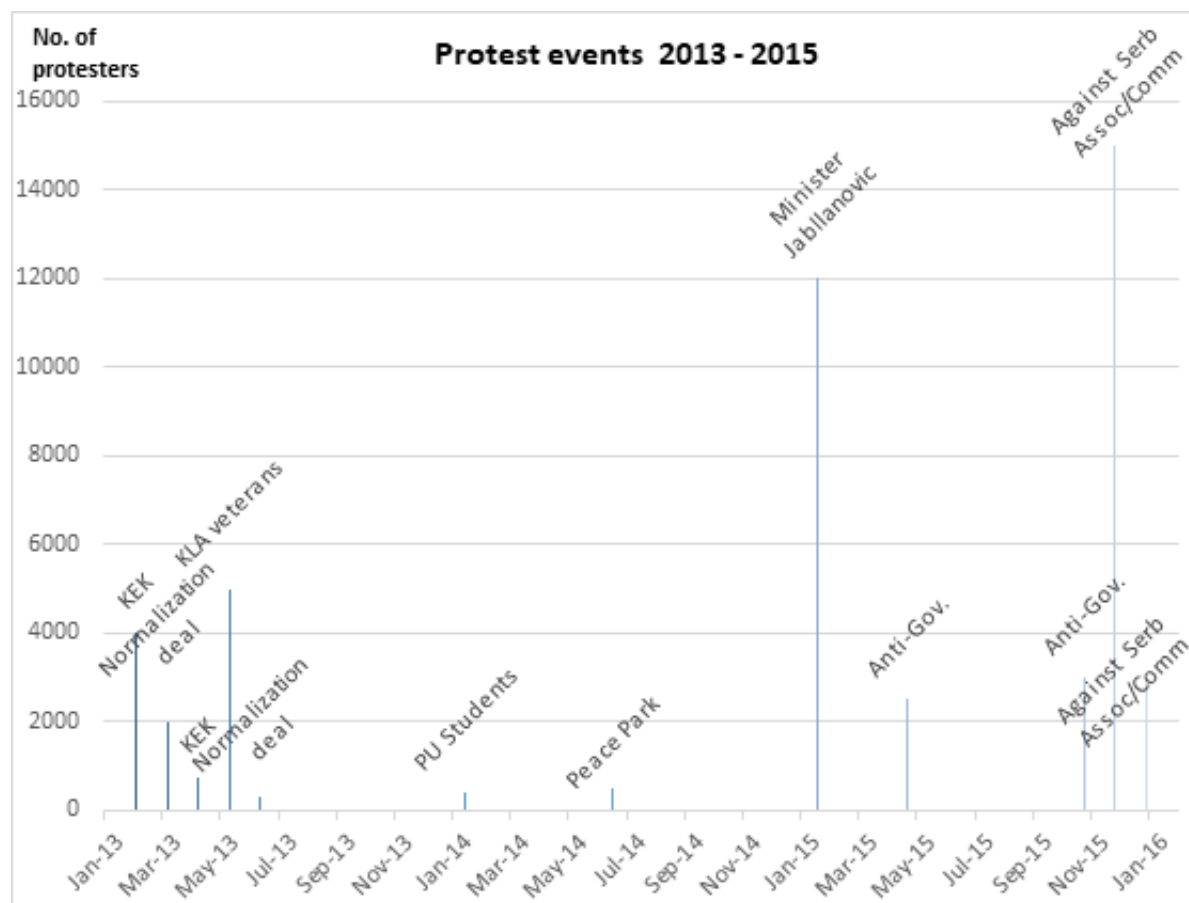
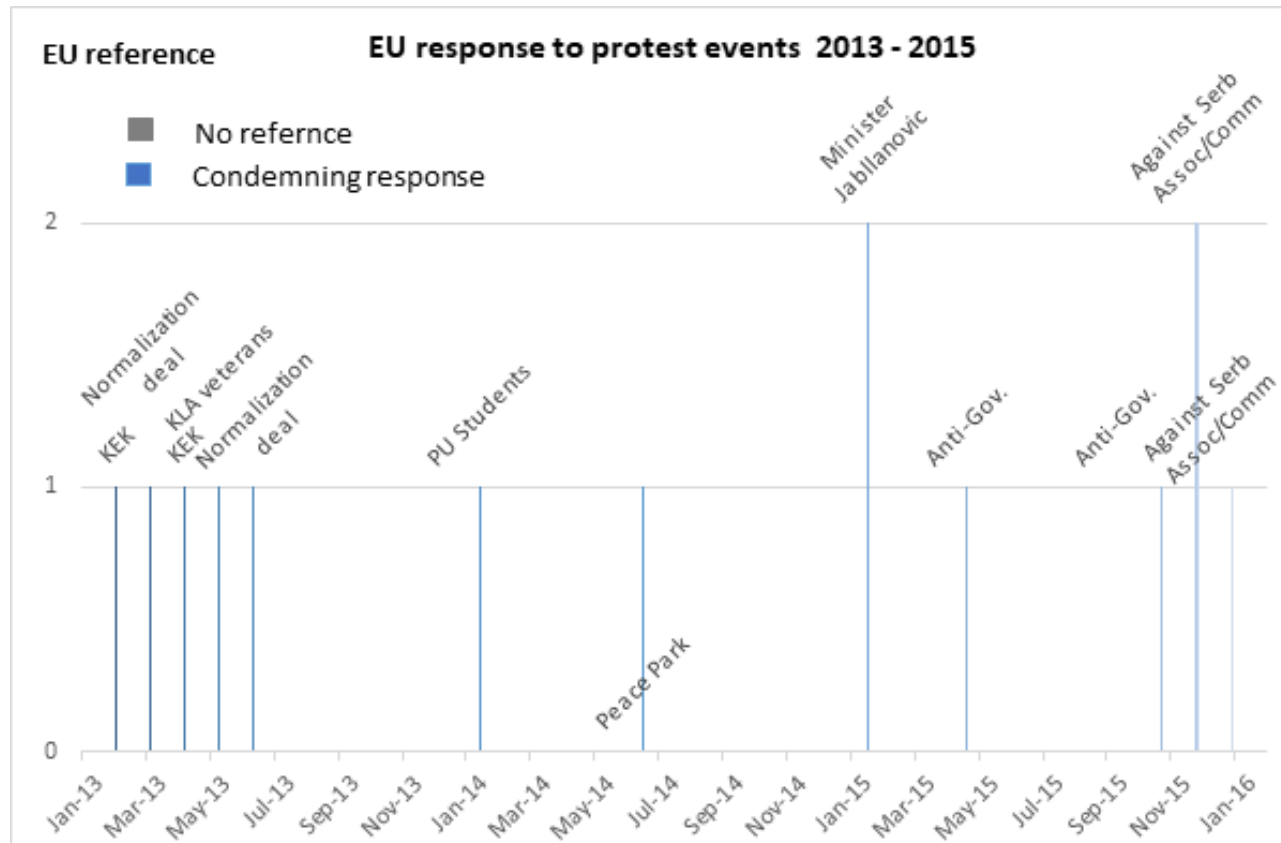


Figure 2 presents the EU response/reference to local contentious events 2013-2105. The grey bars indicate the cases in which there was no response to the protest events, while the red bars indicate the cases in which the EU agencies addressed the protest events through their joint statements as Quint members, issued by their respective embassies in Prishtina.

**Fig. 2: The EU response to local protest event 2013-2015**



The main findings of this part are twofold. The analysis of the data indicates the absence of the EU reference to most of the local protest events, regardless of their goals or organizing actor. There are however, two cases – the protest against Minister Jablanovic and the law on the ownership of Trepcia, and that against the Serb Association/Community agreement, both occurring in 2015, in which the EU agencies addressed the protests and condemned them as violent, and thus harmful to the democratic order and the European values.

## Two patterns of the EU's discourse: Deletion and Deligitimation

The first part of this section examines the 'absence' of reaction or pronouncements issued from the EU agencies, while the second part accounts for the selected 'presence' of EU reactions, and the condemning nature of its responses. The linguistic tools highlighted in this section are nominalization, topic control and modality. The analysis seeks to show how these discursive tools constitute social realities, social relations and the (social) self.

### Deletion of contentious events and actors

*Local contention and political opponents reduced to 'developments' and 'no-one'*

This part of the work seeks to demonstrate how the usage of linguistic tools such as nominal-

ization constructs social reality by deleting contentious events and by omitting local critical actors from the political arena. Following is the brief content of one of many joint declarations of the Quints' members on November 29, 2015, found at the websites of both the French and US embassies in Pristina:<sup>19</sup>

*The Embassies of France, Italy and United Kingdom, and the United States in Pristina have been closely following developments in Kosovo over the past days. We are pleased that demonstrations have passed peacefully and would like to commend everyone, especially the Kosovo Police involved. We believe in the power of dialogue as a means to solve political disagreements, and encourage all sides to make use of the various opportunities for dialogue, including the Assembly.*

*We are committed to strengthening the rule of law in Kosovo. We believe that no-one is above the law. We expect and request all procedures to be followed correctly in the spirit of transparency, especially in political sensitive cases, and will continue to observe closely cases involving Members of the Assembly. As in the case in our countries, we expect in a fellow democracy for all politicians to be subject to the law regardless of their political affiliation.*

On one hand, the text clearly indicates the opinion and expectations of the 'we' actor, while on the other, it is very elusive when it comes to the actor(s) behind the demonstrations, its logic of dissent and its demands. Fairclough reminds us that: "Nominalization is the conversion of process into nominal, which has the effect of backgrounding the process itself – its tense and modality are not indicated – and usually not specifying its participants, so that who is doing what to whom is left implicit" (1992, 179). In this sense, transforming the contentious act of local citizens demonstrating for nearly a month into 'developments' and 'demonstrations' allows for the omission of subject, casualty and responsibility, since this account leaves them vague and undefined.

An additional example of nominalization in the same text, is the conversion of profound ideological division and prolonged struggles between government and opposition, into 'disagreements' to be solved solely by dialogue. Nominalization indicates Fairclough "turns processes, and activities into states and objects, and concretes into abstracts" (1992, 182). Hence, regardless the fact that opposition parties blocked the work of parliament since early October, demanding Kosovo government to ditch its recent agreement with Serbia, the European Embassies completely silence the actor behind the resistance along with the people doing the demonstrations, rendering them thus into absent objects. While on the ground, citizens for nearly a month rallied and even clashed with police forces<sup>20</sup>, local contention politics is framed by the united European voice 'we' as a fragmented state of 'developments' featuring 'the past days', and the local defiance is reduced to abstract 'political disagreements'.

According to Fairclough "... the creation of new entities is a feature of nominalization which is of considerable cultural and ideological importance" (1992, 183). When looking at the text, it is possible to discern a number of entities, some of them being introduced and some being reestablished. The new entity being introduced in the text is the 'dialogue', which is mentioned interestingly twice in the same sentence. The declaration clearly states that 'the power of dia-

logue' is the European way to settle the 'political disagreements', and since there exist "various opportunities for dialogue", it is implied that one needs the right political will to seek and use these opportunities. Another entity, this time being reestablished is 'the rule of law'. The logical link immediately follows then, "no-one is above the law", therefore those who do not possess the right political will to use the way of dialogue, they will "be subject to the law regardless of their political affiliation". Given the police's futile attempt to arrest Albin Kurti, the main leader of Vetevendosje Movement and opposition groups obstructing the Assembly procedures, one can possibly read, "no-one is above the law" as a warning to those who do not conform to the European practice of dialogue.

The third new entity, introduced on one hand vaguely as the 'no-one', while on the other, is to be subject to the law, its procedures and the European observance, illustrates another example for nominalization of local contentious actors into nonentity. Apparently, the protesters' collective will, is being signified as nonrepresentational, yet, blurred into an abstract subject accountable to the rule of law. As a feature of nominalization, this abstraction process of the collective will, serves to marginalize and exclude from the political decision-making process those who resist and criticize the EU agenda in Kosovo.

### Delegitimizing civil disobedience

In this part, I focus on the construction of social identities or 'the self' and the modes through which social identities and 'selves' are associated with certain domains and practices, resulting in their redefinition. To this end, I have chosen to return and analyze again three joint declarations of Quint members addressing Kosovo's people on January 19th and 26th<sup>21</sup>, referring to the wave of mass protests demanding the resignation of the (ethnic Serb) Minister of Communities Aleksandar Jablanovic.<sup>22</sup>

*The Embassies of France, Germany, Italy, the United Kingdom, and the United States in Pristina condemn the continued **use of violence** to achieve political goals. We call for respect for the rule of law, democratic procedures, and international norms. **Political violence is unacceptable**, and damages the interests of Kosovo citizens and Kosovo's international standing. This benefits no one. We commend the professionalism of the Kosovo Police and stress the importance of all citizens, regardless of rank or position, abiding by the law. (emphasis added)*

*The Ambassadors of France, Germany, Italy, the United Kingdom and the United States to Kosovo stress the democratic right of all citizens to protest in a **non-violent manner**. The right of peaceful assembly to join freely with fellow citizens to demonstrate is critical to a functioning democracy. However, **violence during protests is illegal and unacceptable**. We therefore condemn the **acts of vandalism** by a group of protesters on 24 January against public and private property and the intimidation of TV crews, which is also contrary to the principles of media freedom. We call on all citizens of Kosovo to exercise their democratic rights responsibly. (emphasis added)*

There are three complementary processes worth noting in these discursive samples. The first one refers to how the European powers (EP) associate the protests of Kosovo citizens (KC) with

violence. As both texts show, the EP frame the local contention as ‘political violence’ and ‘acts of vandalism’. Despite the fact that tens of thousands of people took to the streets to demonstrate their resentment against the national humiliation (Aleksandar Jablanovic incident) and to express their objection to the political reforms (EU-mediated agreement between Kosovo and Serbia), the EP discourse embodies a bureaucratic rationality which treats local dispute in terms of violence only.

When employing the analytical tool of “topic control”, one can immediately notice that the EP voices choose to talk of violence whenever referring to local struggles against the political process in Kosovo. One cannot help but wonder, what function serves the category of ‘violence’ in this discourse then? Following the constant and massive protests ‘washing’ the streets of Prishtina on November 2015, supporting the disruption of Assembly’s procedures by the opposition parties, a third joint declaration of Quint members was issued in English, translated as well in Albanian and published in various local newspapers:

*Today we have witnessed a **continued obstruction** by the opposition of the Assembly work. This kind of **violent obstruction is neither acceptable** nor will it solve any problem for the citizens of Kosovo. We call for the return to dialogue in the political life in general and the Assembly in particular to prevent any further **escalation of violence** that could lead to damage of property and injuries to human lives. The people need all of the Assembly and institutions to work and tackle economic, social and other everyday challenges they face. (emphasis added)*

*The peaceful conduct of Saturday’s opposition protests is an example of a democratic way to express disagreement over political issues and a proof that Kosovo and its political leaders are able to engage in a political dialogue through democratic means. On this occasion, we underline the importance for the institutions to carry out their duties in line with their legal obligations and competencies as well as for the political parties and politicians to exercise their activities within the scope provided by the law....*

The analysis of these texts identifies an EP’s pattern of construction of the local challengers’ identity. This brings us to the second process, which points at how EP discourse constructs the local resistant ‘selves’ as non-European, as threatening the democratic values, as well as destabilizing the political and social stability in Kosovo. When indicating that “political violence... damages the interests of Kosovo citizens and Kosovo’s international standing” or that “further escalation of violence could lead to damage of property and injuries to human lives”, the EP discourse positions the contentious ‘selves’ as dangerous to the society, and deems them as endangering the functioning state. When choosing to “condemn the acts of vandalism by a group of protesters... against public and private property”, and to stress “the intimidation of TV crews” without criticizing the police violence and its illegal conduct accompanying the protests,<sup>23</sup> the EP discourse contributes to the construction of the protesters’ identity as imperiling the collective interest. Hence, it is possible to assert that violence serves in the EU discourse as a discursive mechanism that constitutes the local challengers as subversive subjects.

The third process, depicts how EP appropriate the public stage (through public media) to condemn the local contention, serving thus as a way to delegitimize the local disobedience and exclude the local contenders from the political decision-making process. As such, framing the local resistant acts through the lens of violence becomes the mechanism through which EU agencies delegitimize the local challengers' identities, claims and practices. Following are a couple of examples referring to the collective actions characterizing the year 2015. Following the teargas protest in Parliament (Oct, 8, 2015), organized by the opposition party members, the head of the Organization for Security and Development in Europe's Kosovo mission, ambassador Jean-Claude Schlumberger, condemned the acts as **"Unacceptable and detrimental for democracy"**<sup>24</sup> (emphasis added). "Political violence is **unacceptable and damages** the interests of Kosovo citizens" reminds us the joint declaration issued on November 19<sup>th</sup>, 2015 (emphasis added).

Another powerful discourse example, illustrating the EP voice reconstructing the social identity of local challengers and delegitimizing their agenda, is the interview conducted by the news portal IndeksOnline<sup>25</sup> with the German ambassador Angelica Viets. When asked about the largest protests held in Kosovo since the Declaration of Independence, she comments:

*We followed these demonstrations with great concern. Protesting peacefully is a fundamental, inalienable democratic right of citizens. It is a democratic way for citizens to send messages to their political leaders. **Violence, however, is totally unacceptable and worsens the situation...** These demonstrations were triggered by two issues that are in our view relatively minor problems for the overall situation of Kosovo at the moment. They are a sign of the frustration of citizens with the state of affairs in Kosovo... a swell as the lack of perspectives for many young people.... **Violence is not excused by frustration when things cannot be or are not discussed in parliament.** (emphasis added)*

This passage reflects well the political and social relations between local and international actors, as Viets' discourse manifests the construction of the European 'political advisor self', who monitors the local events with 'great concern', and claims to be aware of the "frustration of citizens with the state of affairs in Kosovo". This vague presentation, shifts away from the acknowledgment of the European involvement and control over 'Kosovo affairs', concealing the responsibility behind the exercise of the EU dominance. While admitting that these demonstrations were the most significant ones in Kosovo since 2008, the 'political advisor self' does not present the local claims and reasons<sup>26</sup> that triggered these specific massive protests (January 24<sup>th</sup> and 27<sup>th</sup>) since they are in the EU's "view relatively minor problems for the overall situation of Kosovo at the moment". As she attributes the violent behavior to the local frustration, Viet's further diminishes the logic of local defiance as a legitimate and democratic instrument to express citizens' concerns and interests. In a later passage, Viets chooses to quote a local journalist when contemplating on the local protest strategies: "[Adriatik Kelmendi] considers the 15-minute ultimatum to the police to remove the barricades protecting the government building as 'childish'". She then goes on to redefine and advance the institutional logic: "Barricades as such do not impede the democratic right of citizens to protest but can be put up by police to secure public order or to protect state property in accordance with laws and regulations".



Employing the subjective modality marker 'I', the 'political advisor self' encapsulates the Kosovo and the Balkan identities, by associating them to undeveloped stereotypical images and practices: "I am basically new to this region of Europe. I hardly know any of the stories, intrigues, ruses, deals, scandals, abuses, crimes or promises and hopes of the past 15 something years and probably won't be here long enough to find out". For a newcomer in the region she offers quite a lot of negative assertions, building up into negative representations. Viet's discourse clearly constructs the local subjects as 'childish' and engaged in immature struggles for power seats, oddly mocking the very essence of the democratic game. In her discourse, Viets categorically represents the current political developments as embedded in the national juvenile legacy of "intrigues, ruses, deals, scandals, abuses, crimes or promises and hopes of the past 15 years", legitimating thus the need for foreign advisors to monitor and intervene in Kosovo affairs. As Fairclough recaps: "Offering images of and categories for reality, positioning and shaping social subjects, [contributes] for the most part to social control and reproduction" (1992, 161).

## **Democracy and external statebuilding: Struggles for access and meaning**

This part of the paper looks at how the social practice interacts with the ideological and political effects of discourse. To this end, this section attempts to answer first, how can one account for the condemnation of selected contentious events, and then analyses briefly the joint op-ed by Federica Mogherini and Frank-Walter Steinmeier, marking the entering into force of the Stabilization and Association Agreement between Kosovo and EU, on April 1<sup>st</sup>, 2016.<sup>27</sup> A critical role of the discourse analysis is to identify the discourse's concrete impact over the social practices, and trace the process of struggle over meaning and access.

### **The local struggle for access into the decision-making process**

Why do EU actors respond to the protests against a minority politician, against the governmental suspension of Trepca mines' nationalization, and against an EU-facilitated agreement? Two hypotheses could be useful in trying to make sense of this question. The first refers to the local *versus* international agenda; citizens protesting against KEK services and students opposing corruption in the university embody the local actors targeting the national politics. Alternatively, the protests against the Serb cabinet member, the deferment of Trepca mines' ownership, and against the establishment of the Serb association, target directly the EU agenda for Kosovo. Then again, while going against the EU-facilitated agreement provides a logical base for EU actors to get involved and respond, that doesn't seem to hold for the demonstrations against the Serb politician and the amendment of the law on Trepca's ownership, which by definition are part of the local agenda, totally in the domain of governmental decision-making.

Now, let us turn to the second hypothesis, non-violent *versus* violent contentious events. Given the discourse of security and stability, influencing for years the international engagement in the region, it is clear that EU actors would speak up when protests could turn violent, for fear of escalation of events. When looking at the national political scene in Kosovo, one could detect an asymmetrical EU approach towards the agents of violence. One could hardly find a joint decla-

ration of Quint members or any other EU actor condemning the violence enacted by the police forces against the protesters)<sup>28</sup>. In addition, a close examination of the gathered cases demonstrating EU responses indicates that the lack of a functional parliament seems to generate the utmost attention of the EU actors.<sup>29</sup> Following is the EU Enlargement Commissioner Johannes Hahn's speech held in Kosovo's parliament, and this is how he refers to the parliament's blocking by the opposition parties:

*The agreement [with Serbia] cannot solve Kosovo's internal political problems. These are to be solved by you... **Obstructive violence** has no place in a democratic system. Those who obstruct free exchange have lost the arguments before the debate has even started... The agreement should also strengthen regional cooperation. Under the terms of the agreement, Kosovo commits itself to visible and sustainable improvement in relations with Serbia. This is an essential principle of our agreement.<sup>30</sup> (emphasis added)*

When analyzing all the EU discourse samples related to the blocking of parliament, and the peculiar category Hahn introduces in his discourse – 'obstructive violence' – it is not clear what exactly is the violence obstructing? What in these texts is vaguely called 'the democratic order', 'interest of Kosovo' citizens' and 'free exchange', is concretely linked to the implementation of the EU-facilitated agreement on Kosovo-Serbia normalization process. When the chamber of parliament is tear-gassed by the opposition parties,<sup>31</sup> and the sessions meant to ratify the agreement on the Association of Serb municipalities are blocked,<sup>32</sup> and thousands of citizens are clashing with the police in front of governmental buildings,<sup>33</sup> one needs to grasp that this is a struggle for local actors' access in the decision-making process. A political decision-making process, which is de jure in the hands of the national government but de facto very much imposed and orchestrated by the EU actors (and other international actors like the United Nations, the World Bank, the International Monetary Fund), presents a closed power system for many local actors. This impenetrable power system raises many questions such as: how are the people represented in this inaccessible political order? What is the meaning of people's power then? What implications are there for post-conflict democratic statebuilding? Moreover, what is the role of the EU statebuilding in post-war environments?

### **Democratization of the EU discourse: maintaining power asymmetry**

While focusing upon the particular ideological and hegemonic effects over the system of knowledges and beliefs, social relations, social identities (selves), this section aims to demonstrate how overt power markers are removed in the EU institutional discourse where power relations are unequal.

The discursive sample prepared by Mogherini and Steinmeier as an op-ed is a good example of how the 'gatekeepers' of the EU "democratize their discourse". They employ subtler covert markers of power, which shift "power asymmetry into a more potent one, rather than disappearing" (Fairclough 1992, 203):

*Today marks a new beginning. For Kosovo, for the Balkans, and for the whole of Europe. After four years of hard work – by both Kosovo and the European Union – the Stabilization*

*and Association Agreement between Kosovo and the EU enters into force... The Kosovars see their future inside the EU. In difficult time for our union, this Agreement reminds us of the European project's enduring appeal... It is a dream made of democracy and rule of law. Kosovo deserves a functioning Assembly, zero tolerance on corruption, and everyone treated equally before the law. And only together can we help each other build more democratic and just countries for all...*

Controlling the interaction, speaking in the name of the Kosovars and articulating the agenda indicate some covert markers of power.

*But for a better tomorrow, Kosovo leaders need to take good care of today. The fight against corruption and organized crime, the independence of the judiciary, the accountability and transparency of public administration are still huge challenges. Kosovo's success in these difficult tasks would be our success, too. We will do all we can to support these reforms every step of the way, for a bright a prosperous future for all.*

The use of the modality marker is subtle and restrained: the voice of power in an omnipotent mode becomes the 'guardian' of the future urging the Kosovo leaders to "take good care of today". Only later on in the passage, the power markers 'our' and 'we' incorporate the EU interests and future with that of the Kosovars.

*But change will not happen without serious commitment from all parties. Kosovo won't make it if political fights and score settling count more for than common success. Violence leads nowhere: it only reopens old bruises and scars, and pushes the country backwards. Leaders from both government and opposition must put Kosovo and all its citizens' expectations first.*

The hegemonic voice adopts in this passage a forewarning position, while imposing its own reading of the reality. The EU voice in this discourse deletes the power of people contesting the national political agenda, reduces local contention to "political fights between government and opposition", and attaches 'violence' to local disobedience practices. Fairclough assertion might as well conclude the analysis: "the democratization of discourse is sometimes cosmetic, but it can also be substantive, and there is struggle over its meaning" (1992, 2014). The power asymmetry between the EU and Kosovo does not vanish; the EU power holders are simply replacing overt mechanisms of control for covert ones.

## **Citizens and political decision-making: implications and suggestions**

Although there is no doubt that the EU is a liberal actor, aiming to advance peace and stability,<sup>34</sup> it is worth examining the side effects of its statebuilding practices, not only but especially in the Western Balkans. In spite of its indispensable political and economic contribution,<sup>35</sup> it is

our task as social scientists to point at the EU tendencies to hinder democratic political participations for fear of destabilizing the region. As demonstrated in this research, the current EU discourse on local defiance in Kosovo, prevents a deep discussion of contention politics. In addition, it reinforces stereotypical assumptions about radical actors, allegedly seeking to take power in their own hands, rather than perceiving them as actors claiming the space for political participation. The EU discourse thus, blurs the necessity to look into the political and social claims of the local challengers, undermining the principle needed to establish a democratic and inclusive political order. Given this context, one may assert that political participation in contemporary Kosovo has hit the democratic 'glass ceiling'.

Furthermore, the EU discourse operates through Kosovo's formal framework of public law, and refers to individuals as citizens, emptying and discharging the societal milieu of its transformative power. The disruptive potential of the collective will, interfering with the EU and national administrative authority, is deconstructed in the EU discourse and represented as fragmented individual citizens. Hence, the EU discursive acts are brought to bear on the local actors themselves rather than on the domestic or EU system. Here, one should notice the constituting task of 'violence'. It is through the usage of 'violence' as a signifying category that power voices shape and construct local subjects in order to maintain the present power order. Attaching the sign 'violence' to the local challengers enables their reading as non-European actors, not "willing to dialogue", "interfering with governmental procedures", and non-representative of the society. Associating local actors with the symbol of 'violence' qualifies the local actors as subversive political identities and their resistant act as a non-democratic practice.

What implications does this research have on our understanding of public will and its role on the democratic political decision-making process? Habermas in his seminal work, "The Inclusion of the Other" offers a deliberative account of democracy (1998, 239-252). When comparing the liberal with the republican models of democracy, he indicates the ways in which the role of the citizen and the nature of the political process are conceptualized:

*On the liberal view, politics is essentially a struggle for positions that grant access to administrative power. The political process of opinion- and will-formation in the public sphere and in the parliament is shaped by the competition of strategically acting collectives trying to maintain or acquire positions of power. [Whereas] according to the republican view, the political opinion- and will-formation in the public sphere and in the parliament does not obey the structures of market process but rather the obstinate structures of public communication oriented to mutual understanding. For politics as the citizens' practice of self-determination, the paradigm is nor the market but the dialogue. (Habermas 1998, 243)*

In order to overcome the shortcomings of both normative models, Habermas offers a third one named 'deliberative politics'. By deliberation, he means the need to involve communicative power in the political discourse, in order to balance the administrative and market powers. Concretely, deliberation is a collective process that involves a multi-directional conversation seeking to enhance understanding and improve decision-making. As Habermas expresses it:

*... the conflict of opinions conducted in the political arena has legitimating force not just in the sense of an authorization to occupy positions of power; on the contrary, the ongoing*

*political discourse also has binding force for the way in which political authority is exercised (1998, 244).*

Hence, deliberation operates as a precondition imbuing the legitimacy of democratic decision-making process. Deliberative democracy is not founded on competing interests, rather on the exchange of knowledge and argumentation of various alternatives all serving the common good. Deliberative politics thus seek to secure the public good based on the power of reason and not on the political power.

Although scholarly research has in recent years enhanced the conceptual foundation of democratic quality, “citizen dispositions continue to play second fiddle to institutions” (Mayne and Geissel 2016). This research calls for a rethinking of our political systems based on evaluations that engage the concept of citizens’ perspective and put the demos back into the democratic project (Mayne and Geissel 2016; Geissel 2016; Pickel *et al* 2016; Kneuer 2016). Following this line of thought, there is a need to rethink the liberal statebuilding agenda guiding so far the conceptual and empirical principles of international and the EU statebuilders.

Researchers of international statebuilding have already criticized the export of liberal statebuilding as a top-down Western project that cannot guarantee the establishment of democratic institutions and liberal market economy without substantial attention to the society itself, the undermining of domestic sovereignty and lack of Western political accountability (Paris 2004; Chandler 2010; Pugh 2009). As such, future research might benefit extensively in examining how international statebuilding can incorporate deliberative democracy practices in order to improve the political decision-making process in the Western Balkans and beyond.

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10 By European statebuilding I refer to the neo-liberal principles of statehood advocated by EU agencies: good governance, rule of law, competitive market economy and human rights (for more see: Tocci 2004, 2007; Grabbe 2006; Stewart 2011)

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# **The Impact of Personalization of the Electoral System on Intra-Party Democracy: The Evidence from Kosovo**

**Zlatko Vujović**

## **Introduction**

As the youngest state in the Balkans, Kosovo is facing numerous and serious challenges to progress from the status of the international protectorate to the status of an independent state. Despite declaring its independence, and having been recognized by 114 countries, Kosovo is still not a member of the UN, but formally remains its protectorate. There are still two parallel political systems in this country, one that was established by Kosovo institutions and another that still works under the auspices of the UN, or under the authority of UNMIK. An international military intervention led by NATO forces resulted in the UN taking over all functions of the state, and then gradually transferring them to the new Kosovo local authorities. A number of international organizations are still present in Kosovo, and some of them still have very widespread and influential authority. The Special Representative of the UN's Secretary General, who is the head of the UNMIK, still has the right to veto any decision made by Kosovo authorities.

However, in spite of the great authorities, and an extremely large amount of funds invested in institution building in Kosovo, the international community is facing the risk of failure. Its recovery is slow and uncertain. Some authors (Hehir 2016) believe that Kosovo is close to the definition of a failed state. The international community has made a significant effort in the field of constitutional and electoral engineering, which allowed Kosovo to gain a voting system in which mechanisms are integrated in order to strengthen the process of democratization, as well as ensure the role of citizens in choosing their representatives. Although, according to other criteria, Kosovo is lagging behind in the process of democratization, the electoral system design is significantly more advanced than in other countries of the Western Balkans. The question is whether it positively influenced the political processes. If the pace of democratization is not at a satisfactory level, then a question can be raised about the level of influence of the electoral system on democratization process, and particularly, on democratization within the political parties.

## **Setting the parameters of the study**

This article is focused on evaluating the impact that the electoral system used in Kosovo has on internal party democracy. While using the term electoral system, I am referring to “a set of laws and party rules that regulate electoral competition between and within parties” (Cox 1997, 38). Cox is introducing procedures within parties, which are regulating competition as an element of an electoral system. Cox focuses on four aspects of the legislative electoral system: “those laws and rules regulating how parties make their nominations; how citizens vote and how those votes are counted; what the district structure of the polity will be; and how counted votes are translated into seats. The second, third, and fourth of these aspects are determined by electoral law, the first by a combination of law and party regulations” (38). One such aspect is the personalization of the electoral system, understood as the “degree to which the electoral rules allow voters to choose which individual candidates win seats within legislature” (Renwick and Pilet 2016, 17).

The purpose of this paper is to explore if the personalization of the electoral system in Kosovo empowers the process of internal party democratization. In order to get the answer, we will use the intra-party democracy as dependent variable, and (1) PR list system with preferential voting, (2) party system, (3) internal party procedures of candidate selection, and (4) rule of law as independent variables. The main hypothesis is that a higher level of personalization of the electoral system in a non-consolidated democracy weakens the position of political parties, without strengthening intra-party democracy.

In this article we will apply different methodological approaches. In order to classify the electoral system of Kosovo, we will use Karvonen’s (2004) typology; for classifying the party system we will use Sartori’s typology; finally, we will use the Goran Čular model to classify political parties in Kosovo based on the level of intra-party democracy, but based on analyses of their party statutes. This approach is connected to Cox’s definition of an electoral system, which reads as “laws and rules regulating how parties make their nominations”. By using institutional approach, we will analyze the impact of electoral systems on intra-party democracy. We will deal with two dimensions of electoral systems developed by Shugart (2001, 25): “the inter-party dimension,

which relates to the distribution of seats across parties, and intra-party dimension, concerning distribution of seats among candidates within parties” (Renwick and Benoit 2015, 7).

In order to classify Kosovo’s electoral system I use one of the classifications developed by L. Karvonen. Karvonen differentiates between “preferential list systems in which individual votes are the sole basis on which the choice of individual legislators is determined, and those in which list order or other considerations simultaneously play a role” (2004, 207). Karvonen developed a classification that includes six types of systems. Analyzing preferential voting, Karvonen identified four dimensions of preferential proportional systems. Each of them has a different impact on party system, as well as on parliament composition. These four dimensions are: (1) ballot, (2) candidate choice, (3) number of votes and (4) threshold.

Most scholars define ‘party system’ as a system with more than one party. Sartori defines a party system as “the *system of interactions* resulting from inter-party competition.” (2005, 39). In order to better evaluate the Kosovo party system, we will opt for the criterion including the number of political parties. Based on that criteria, and using Blondel’s and Sartori’s classification, we will classify Kosovo’s party system in the appropriate category. In fact, recognizing that the numerical criteria of classification can not be avoided, Sartori points out that when defining the category “All in all, the real issue is not whether the number of parties matters - it does - but whether a numerical criterion of classification enables us to get a hold of what matters.” (Sartori 2005, 110).

Intra-party relations, just like candidate selection procedures, represent the secret garden of politics (Galagher and Marsh 1988). For the term “intra-party democracy” there is no universally accepted definition, same as there are no standards on what should be fulfilled by the parties in order to reach internal party democracy. Susan Scarrow sees intra-party democracy as a “broad term describing a large scope of methods for inclusion of members into the intra-party process of deliberation and decision-making” (2005, 3). Two authors, Susan Scarow and Goran Čular, invested efforts to develop a classification of parties based on the levels of intra-party democracy. Susan Scarrow (2005, 6) uses a three-dimensional model of criteria of intra-party democracy: inclusiveness, centralization and institutionalization. Čular’s (2004) model is bi-dimensional. He distinguishes between the dimension of autonomy and the dimension of inclusion. The dimension of inclusion concerns horizontal aspects of the political party, indicates the number of members of the party included in the decision-making processes, and implies a difference in the scope of powers granted to wider party bodies in comparison to the scope of powers enjoyed by the inner circle of the party administration (Čular 2004, 35). The dimension of autonomy refers to the vertical distribution of power, i.e. it deals with the issue of autonomy of parts of the party at different levels and how the “party in the field” can influence decision-making processes at the different levels within the party. In accordance with dimensions and numerous indicators (see more Čular 2004), he developed a typology of four types of political parties, depending on the level of intra-party democracy that characterizes them: (1) low democracy type (low level of autonomy and low level of inclusion), (2) democratic centralism type (low level of autonomy and high level of inclusion), (3) individualist-elitist type of party (high level of autonomy and low level of inclusion) and (4) full democracy type and (high level of autonomy and high level of inclusion).



I am using the rule of law as the fourth independent variable. Merkel (2011) believes that the rule of law is essential for assessing a level of democracy in a country. Further, this article will show that this very segment has influence on the effects of electoral systems as well. I am introducing the rule of law on the basis of Merkel's classification of democratic systems. Merkel (18-22) believes that democracy in a constitutional state is defined by five partial regimes of democracy, including: (1) democratic electoral regime, (2) political rights of participation regime, (3) civil rights to freedom partial regime, (4) institutional security of the power division control (*horizontal accountability*), and (5) guarantee that "the effective power to govern" of democratically elected representatives is *de jure* and *de facto* provided.

Such a model of Merkel's highlights that democracy i.e. embedded democracy cannot be reduced to a democratic electoralism. Merkel underlines: "*A democratically fair process of electing those who govern is not sufficient. It must be institutionally ensured that democratically elected representatives govern between elections according to the principles of democracy and the constitutional state.*" (18). It is therefore necessary that electoral processes are conducted in an equitable manner and that there are sufficient institutional guarantees that the elections are *democratically meaningful* (Beetham, 1994). It is necessary to "conduct a democratic governing on the constitutional basis of the principles of a constitutional state" (Merkel 2003, 18).

I have selected Kosovo in order to investigate how electoral systems influence the process of internal party democratization in defective democracy. Kosovo's electoral system represents an open and mandatory preferential list system with more preferential votes at the voters' disposal, and without a requested threshold. It belongs to a group of "strong" preferential voting in list systems together with Chile, Cyprus, Estonia, Finland, Greece, Italy until 1993, Liechtenstein, Luxembourg, Poland, San Marino, and Switzerland. Moreover, Kosovo is the only defective democracy that uses strong preferential voting in the list system.

We can notice that Kosovo has partially advanced electoral rules, but internal party democracy is still weak. This study will contribute to explaining that situation. In the study I use quantitative data from Comparative Candidate Study for Kosovo (CCS). CCS data will give me the possibility to assess the situation within parties and to see how preferential voting influences candidates' campaign strategies. I will also assess the financing of individual campaigns. Quantitative data from the general population survey conducted in Kosovo are used for analyzing some aspects of the party system in Kosovo. Election statistics are used for the assessment of the impact of preferential votes on final list of elected candidates. Based on those findings, it is possible to assess to what extent the outcome on party candidate selection process is aligned with voter preferences.

## **The impact of the electoral system on political parties**

This section specifies the electoral rules in Kosovo and their impact on political parties. The first democratic elections held in Kosovo in 2001 were organized by the international community. The electoral system of Kosovo is a very interesting topic for research, as it was imposed by foreign decision makers (such as UNMIK) and not based on the strength of domestic political parties. Thanks to that, for example, it has had a gender quota from its beginning. Since the first election, Kosovo has not experimented with electoral changes, but it was using the PR

list system with Saint-Laguë method of seats allocation. Kosovo has an *at-large* multi-member constituency with 120 seats in the Assembly. In the elections held in 2001 and 2004, closed lists were used, and in 2007 open lists were introduced. In other words, voters were allowed to vote for 10 candidates within the same candidate/party list. With 10 preferential votes, a voter had the opportunity to influence which specific candidates will be elected MPs. After the declaration of independence, the Kosovo Assembly adopted the election law for the first time. The electoral rules were previously determined by the UN administration representatives. However, the law which was adopted in 2008 contained the possibility of using a single preferential vote compared to the previous case when a voter was entitled to use 10 preferential votes within the same candidate list. The same law introduced a provision which prescribed that a vote for the party list was considered an automatic vote for the first candidate, or that the number of party votes automatically became the number of preferential votes obtained by the first one on the list. This guaranteed that the first one on the list became an MP if the list won at least one seat.<sup>1</sup> However, in 2010, before the parliamentary elections, amendments were adopted, bringing back the preferential voting, i.e. open lists, but this time a number of preferential votes was reduced from 10 to 5.<sup>2</sup> In addition, the decision was abolished, by which a vote for the party was considered a vote for the first one on the list, which was used by the legislator to strengthen the positions of the party leaders. The Law on Local Elections contains such a decision, and a voter has only one preferential vote on their disposal within the candidate list.

The legal threshold of 5 percent is quite high compared to other Western Balkan countries, preventing increased fragmentation of the Parliament. But still, the Kosovo Parliament faces fragmentation, dominantly due to significant number of seats reserved for national minorities, i.e. 20 of 120. In the last parliamentary elections (2014), 15 parties gained parliamentary status, but there is a large number of parties that have only one (7 parties) or two seats in the Kosovo Parliament.

**Table 1: Key structural elements of electoral system used in Kosovo**

Elections	Assembly size	Electoral system	Number of constituencies	Magnitude	Reserved seats for minorities	Legal list threshold	Balot paper	Number of preferential votes	Election of candidates	Threshold for preference votes	Electoral formula
2001-4	120	List PR	20	120	20	5%	Closed	No	N/A	No	Saint-Laguë
2007	120	List PR	1	120	20	5%	Open	Yes (10)	Mandatory	No	Saint-Laguë
2010-4	120	List PR	1	120	20	5%	Open	Yes (5)	Mandatory	No	Saint-Laguë

## Preferential voting

The introduction of preferential voting represents the main change in Kosovo's electoral system. Preferential voting was used in 2007 for the first time. A voter could cast 10 preferential votes within single party (candidate) list. That caused a lot of technical problems and resulted in a decrease of number of preferential votes to 5 for parliamentary elections in 2010. Voters are obliged to cast preferential voting in order not to invalidate their ballots, but it is not necessary to use all five preferential votes. The current electoral regulations provide 5 preferential votes to voters on national, and only one on local elections.

In order to have a better overview of the impact of preferential votes, I have compared the initial candidate list proposed by parties, for parliamentary elections held in 2010 and 2014, to the final list of elected candidates. I wanted to learn how many candidates who didn't have a "secure" position on the candidate list got elected. Under secure position, we understand the positions on the candidate list which are limited to the number of seats that the party received. As it can be noticed from the table 2 and 3, voters produce significant impact. It ranges from 0 percent to 77 percent. Srpska List had the two greatest impacts of preferential voting on candidate list. In their case, even the leader of the list (the candidate who covered first position on the list) was not elected. The List got 9 seats, but its leader was not included. Out of the total number of allocated seats, 40 percent of them on the list were placed out of secured positions, so they were elected only thanks to preferential votes they received.

**Table 2: Overview of impact of preferential voting over party preference of candidates (Kosovo parliamentary elections 2014)**

		PDK	LDK	LVV	AAK	Srpska List	NISMA	KDTP	Vakat	Other	Total
1	Number party seats (a)	37	30	16	11	9	6	2	2	7	120
2	Number of seats allocated to candidates out of secured positions (b)	22	19	12	4	2	4	1	1	7	72
3	Number of seats allocated to candidates from secured positions (c)	15	11	4	7	7	2	1	1	0	48
4	Outcome	40%	36%	25%	63%	77%	33%	50%	50%	0%	40%

**Table 3: Overview of impact of preferential voting over party preference of candidates (Kosovo parliamentary elections 2010)**

		PDK	LDK	LVV	AAK	AKR co- alition	SLS	KDTP	Vakat	JSL	Other	Total
1	Number party seats (a)	34	27	14	12	8	8	3	2	4	8	120
2	Number of seats allocated to candidates from secured positions (b)	17	16	8	6	7	5	2	1	3	7	72
3	Number of seats allocated to candidates out of secured positions (c)	17	11	6	6	1	3	1	1	1	1	48
	Outcome	50%	40 %	42%	50%	12%	37%	33%	50%	25%	12 %	40%

The above mentioned findings show that there is a strong influence of voters on final list of elected candidates, which puts the electoral system of Kosovo in the group of “strong” preferential voting list systems following Karvonen’s classification as it was explained earlier in this article.

### **Personalization of electoral campaign and its financing**

The electoral system provides a significant incentive for MP candidates to make themselves more attractive compared to other candidates, by means of a campaign. However, despite the fact that there is a clear personalization of campaigns, a significant number of candidates point out that they give a slight advantage to campaigning in favor of the party, rather than in their own favor. In the table below it can be seen that on a scale from 0 to 10, where zero (0) means to attract as much attention as a candidate, while 10 means to attract as much attention to the party, the average value for which the respondents/candidates for MPs on elections 2014 opted is 7.1. If we assume that during the CCS study, the MP candidates responded sincerely, we can conclude that they give priority to the interests of the party’s campaign while conducting their own campaigns.

**Table 4: Purpose of candidate campaign activities – Candidate versus party**

	Total	Last election on Kosovo (2014 )	
		Ruling coalition	Opposition
N	157	40	117
Sig		0.98	
	%		
0...for candidate	10.2	10	10
1	03.2		04
3	01.9		03
4	01.9		03
5	14.0	20	12
6	04.5	10	03
7	05.1	08	04
8	04.5	03	05
9	10.2	13	09
...for party	39.5	35	41
No answer	05.1	03	06
Average	7.1	7.1	7.1

**Source:** *Comparative Candidate Study Kosovo (2015), KIPRED, CeMI, IPSOS.*

However, the answers to other questions show that the candidates are very active when it comes to their campaigns. Namely, 70.7 percent of respondents addressed some of the local issues during their personal campaign, primarily issues concerning education (11.7 percent) infrastructure (10.8 percent) and investments in their municipality (9.9 percent). The answers to a set of questions presented below show that, during the personal campaign, the candidates for MPs paid attention to issues relevant for their campaign on one hand, and issues relevant to the municipality of origin on the other hand, apparently expecting the highest support for their personalized campaign from that side.

**Table 5: How strongly did you emphasize each of the following in your campaign...?**

	N	Very much	Much	Some-what	not much	Not at all	No answer	Total
Issues specific to your personal campaign	157	35.0	31.8	13.4	08.9	08.9	01.9	100%
Providing services and practical help to people who live in your constituency / place where you live		37.6	27.4	14.6	06.4	10.8	03.2	
Advocacy for public policies requested by the voters from your constituency/place where you live		36.9	36.9	10.8	06.4	05.1	03.8	
Care about social and economic welfare in your constituency / place where you live		47.8	35.0	08.3	01.9	04.5	02.5	
Openness and intensive communication with voters from your constituency / place where you live		61.1	26.8	05.7	00.6	03.2	02.5	
Your personal characteristics and circumstances		29.9	29.3	17.8	08.9	10.8	03.2	
Particular items on the party platform		44.6	35.0	08.9	03.2	03.8	04.5	

**Source:** *Comparative Candidate Study Kosovo (2015)*, KIPRED, CeMI, IPSOS.

According to the findings of CCS for Kosovo, during the implementation of the personal campaign, each candidate for MP hired an average of 30 persons, of whom one in ten was paid, while the rest were volunteers. Also, 8.9 percent of the candidates hired professionals for the purposes of their campaign. According to parliamentary candidates, the financing of their own campaign was covered in 18.7 percent on average by the party, while the private funds of candidates made 64.9 percent, and donations of third parties made 16.4 percent.

As regards the participation in the financing of pre-election campaign, 38.9 percent of candidates gave their contribution. Among them, 38.3 percent gave a monetary contribution, 40% covered the direct costs from their own resources (petrol/flyers/accommodation...), while 8.3 percent of them said they had provided donations in various forms of personal contribution (personal work/ideas/participation). According to the CCS, the average value of contributions is €2,272. The amount is somewhat higher for MP candidates from the opposition parties (€2,347), while for the candidate of the ruling parties the amount was €2,083.

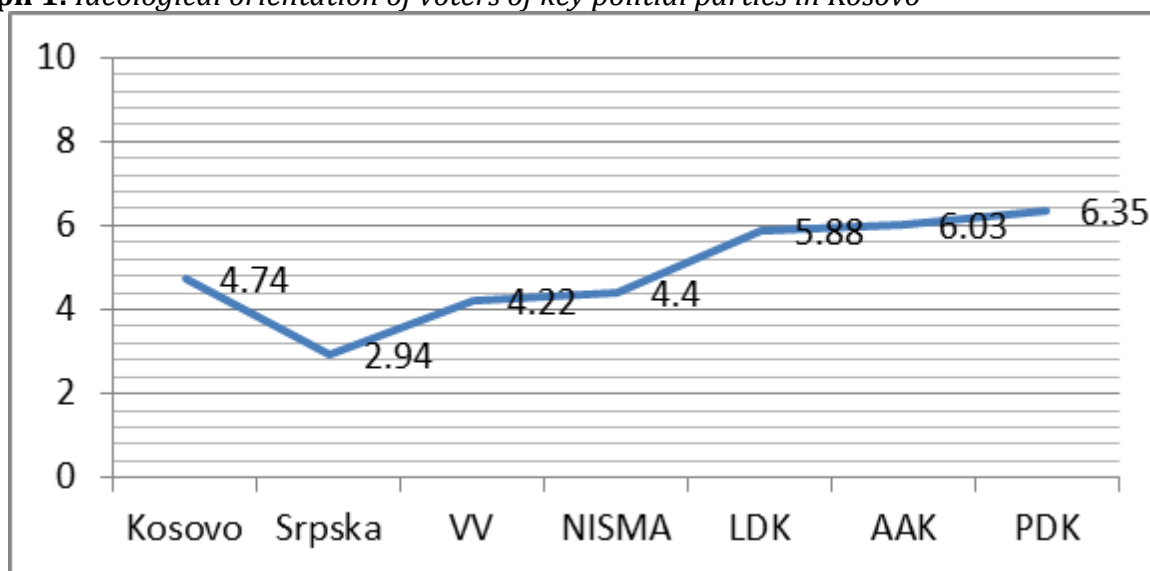
## Party system

The beginning of the multi-party system is very characteristic for Kosovo, because it coincides with the construction of a parallel political system, due to the suspension of autonomous institutions of Kosovo by Serbia. The constitutional crisis, caused by a drastic reduction of the level of Kosovo autonomy, and the subsequent Declaration of Independence and the adoption of the Constitution of the Republic of Kosovo by MPs of AP Kosovo's Parliament, resulted in the political repression, which led political forces of Kosovo Albanians to go underground. From the underground, they organized parallel elections, the government in exile, and a number of

other institutions. The period from 1989 - 1999 was marked by the dominance of a single party in the political life of Kosovo Albanians - the Democratic League of Kosovo (LDK). “Essentially, in Kosovo the year 1989 did not mark the transition from one-party into a multi-party system, but, rather, the transition from the Left, Communist, one-party system into the Right one-party system” (Agani 2015, 15). The first democratic elections were organized only in 2001.

The characteristic of the Kosovo political scene is that almost all the parties want to position themselves in the right-wing, with the trend to present themselves as right-wing center parties<sup>3</sup>. However, this often results in confusion. According to surveys, a large percentage (46.1 percent) of the population is not aware or does not want to state where they see themselves on the left/right scale.<sup>4</sup> Although the dominant right-wing orientation of the electorate is clearly visible (see chart 1), a party’s commitment is to a greater extent decided by the attitude towards the leaders, geographical and territorial attachment, as well as an extremely high level of economic social dissatisfaction, than by the ideological orientation.

**Graph 1:** *Ideological orientation of voters of key political parties in Kosovo*<sup>5</sup>



**Source:** IPSOS, KIPRED, CeMI: Public opinion survey April 2016

One of the key features of the party system is that the largest number of parties that have a parliamentary status emerged from the KLA. These are PDK, AAK and NISMA. “The KLA lacked a single organisational structure in terms of chain of command, an organisational structure highly shadowed by the regional provincial bases of Kosovo – traditionally maintaining sub-cultural differences. This type of political division was used as a mechanism to split up society and create cleavages, though it could not be transformed into a symbol around which parties could construct their visions to respond to social needs and develop Kosovo after the war. The cleavages of such type were short-term in nature compared to cleavages given by Lipset & Rokkan, and started to decline shortly after the war, making no sense at all after independence” (Smajljaj 2011, 141). However, despite these statements of Smajljaj’s, it is evident that some parties maintained a strong support in some regions. The AAK, led by Haradinaj, is still dominant in the Dukagjin region. However, despite the regional foundation, surprises may occur, such as the election of Mimoza Kusari (AKR) a Mayor of Gjakova, but also the loss of Pristina by LDK, which



was won by the LVV movement in 2013. Until 2013, the LDK dominantly administered Pristina.

Parties of liberal democratic orientation did not succeed; therefore, despite the success in local elections in 2013, AKR lost parliamentary status during parliamentary elections the following year (2014). FER, a party consisting of leaders of the civic sector with civic orientation, failed to reach a fairly high legal electoral threshold of 5 percent. LVV is the only party which did not originate from LDK or KLA, and which has received stable support from voters. It does so by applying radical nationalism, strongly oriented against the international community and the Serbian community, criticizing widespread corruption and openly supporting unification with Albania. Kosovo party system remains stuck in the right-wing nationalist wandering, on the one hand clearly committed to moving towards Europe, but on the other hand limited by the strong radicalization of public opinion and the political scene, which, fueled by social dissatisfaction, finds its vent in the strengthening of nationalism. The Serbian electorate gave support to Srpska Lista,<sup>6</sup> which was supported by official Belgrade. It is a new political entity under the strong influence of official Belgrade.

### **Multiparty system without dominant party**

After the last parliamentary elections, the Parliament contained 15 parties, of which seven parties had only one, and two parties had two MPs. Of course, not all parties in every party system have the same role or influence. The number of parties is a very important issue when it comes to classifying party systems. Jean Blondel (1968, 186-187) proposed a distinction of party systems where the size and the number of parties are taken into account. He differentiates a two-party system, two-and-a-half party system, multi-party system with a dominant party, and a multiparty system without a dominant party

A significant contribution to addressing the issues of the number of parties was given by authors Marko Laakso and Rein Taagepera (1979), who developed the index for calculating *the number of effective* political parties:  $N = 1/\sum si^2$ .  $N$  is the number of effective parties in a party system, while  $si$  presents the proportion of seats which are occupied by that party in Parliament, i.e. the number of seats won. When we apply this formula in order to calculate the number of effective parties in Kosovo after the parliamentary elections of 2014, the number of effective parties is 3.63. In those elections, the key Kosovo parties won 31 - 25 - 13 - 9 - 7 - 5 percent of seats. Thus, according to the classification of the party system developed by Jean Blondel, we can conclude that Kosovo has a *multiparty system without a dominant party*.

**Table 6: Overview of the percentage of votes and number of seats won by parties**

Political party	2001		2004		2007		2010		2014	
	%	Seats-Seats-dat	%	Seats-dat	%	Seats	%	Seats	%	Seats
Democratic League of Kosovo(LDK)	46	47	45	47	23	25	24,69	27	25,2	30
Democratic Party of Kosovo (PDK)	26	26	29	30	34	37	32,11	34	30,38 <sup>7</sup>	37
Alliance for the future of Kosovo (AAK)	8	8	8	9	10	10	11,04	12	9,54	11
Selfdetermination	-	-	-	-	-	-	12,69	14	13,59	16
Initiative for Kosovo (NISMA)	-	-	-	-	-	-	-	-	5,15	6
Srpska List	-	-	-	-	-	-	-	-	5,22	9
New Kosovo Alliance (AKR)	-	-	-	-	12	13	7,29	8		-
Reformist party ORA	-	-	6	7	4	0	-	-	-	-
FER	-	-	-	-	-	-	2,17	0	-	-
Christian Democrats –Democratic league for Dardania	-	-	2	2	10	11	2,14	0	-	
Coalition Povratak (Serbian)	11	22	-	-	-	-	-	-	-	-
Others	9	17	7	15	5	14	-	12		11
Other Serbian parties	-	-	2	10	-	10	3,05	13	-	-

**Source:** Central Election Commission of Kosovo, Stojarova 2010, Skendaj 2012, Gjikoli 2015.

### Polarized pluralism

Sartori (2005, 11) differentiates between competitive and non-competitive party systems, and within this basic classification there are seven categories of party system. The non-competitive systems include: (1) one party, and (2) hegemonic party. The competitive systems include: (3) predominant party, (4) two party systems, (5) limited pluralism, (6) extreme/polarized pluralism, and (7) atomized.

According to the Table 6, it is clear that in the case of Kosovo we cannot talk about the first two types, or about the types 3 and 4 of Sartori's classification, or atomization within the party system. It remains ambiguous whether Kosovo party system can be classified as limited or polarized pluralism. In fact, in the development of the party system of Kosovo there are two phases. The period of moderate pluralism (2001-2010) and the period of extreme pluralism (2010-onwards). Parliamentary elections held in 2010 introduced in a big way the party Self-determination on the political scene of Kosovo, which represents turning point for change in party system. The period of moderate pluralism is characterized by the existence of the three key political

parties (LDK, PDK and AAK), that in spite of the deep mistrust, still belonged to the right center, shared the same ideological matrix, considering that they are to take credit for independence of Kosovo. Table 7 shows that the LDK was in a coalition with the AAK and PDK. AAK and PDK have never cooperated even though both parties emerged from the war KLA. However, the new party appears in 2010, profiled as: (1) anti-systemic, (2) left, (3) nationalist. The LVV positioned itself as the only organized and influential political force that openly challenges the political system in Kosovo. It does not only want a change of the Government, but also a radical break in relation to what other political elite consider acceptable nowadays. The LVV stands for unification with Albania, or loss of Kosovo independence. The LVV openly opposes the influence of the Quint<sup>8</sup> countries, and international organizations including UNMIK, EULEX and KFOR. The LVV has filled the empty box of the left wing, and with radical methods and populist approach, it relatively quickly gathered many supporters and became the third political entity in terms of the force and influence. In such a new constellation of political relations, we classify the party system of Kosovo as polarized pluralism. According to Sartori (2005, 117-124), the polarized pluralism implies systems that are marked by eight characteristics. We will compare key features of the polarized pluralism to the situation in Kosovo, i.e. test whether this category of Sartori's classification can be applied to the case of Kosovo.

*a. The presence of relevant anti-system party (1)*

As I already pointed out, there are relevant anti-systemic parties within the Kosovo party system. On the one hand there is LVV, and on the other hand the parties gathered around the Srpska coalition, under the strong control of the official Belgrade. Although Srpska contests the independence of Kosovo, since 2013 it has participated in local as well as national elections, which was supported by Belgrade. However, although Srpska participates in the work of the Government, it also occasionally boycotts it, representing the interests of official Belgrade. In other words, it represents a hybrid party with systemic and anti-systemic characteristics, unlike the LVV which has a fully anti-systemic character. As the third strongest political party in Kosovo, the LVV is the only one that advocates for the abolition of the constitutional provisions that prohibit unification with other states, or as it points out in its party program, particularly the unification with Albania. The LVV is committed to eliminating all forms of institutional presence of international institutions which limit full sovereignty of Kosovo. LVV is strongly against the autonomy of those municipalities where the Serbs represent a majority. At the international plan, the LVV emphasizes that its politics will be harmonized with the politics of Albania, and that, when it comes to the region, it will focus on the protection of the rights of Albanians in other countries. However, it also advocates for Kosovo's membership in NATO.

*b. Existence of bilateral oppositions (2)*

LVV represents a political force that is quite distant from other political entities. It builds its strength by proving that it differs from the other parties that are considered corrupted. We have seen that the three key parties, LDK, PDK and AAK, have been part of a coalition government in different periods. The same goes for the Srpska List, as well as NISMA, which emerged from the PDK. Thus, there is a problem of unification of the opposition. On the one hand there is LVV, while on the other hand there are AAK, AKR, and NISMA. However, LVV sometimes makes exceptions. Namely, together with AAK, it organized various activities in order to prevent the establishment of the community of Serbian municipalities, autonomous municipalities where

the majority of Serbs live, and against the ratification of the Agreement of Demarcation of the Border between Kosovo and Montenegro. However, AAK is quite distant from the LVV, so this needs to be considered an exception, rather than a change of the LVV's status. The previous practice shows that the LVV will stay out of the internal party system; in other words, when it comes to Kosovo, we are faced with the existence of bilateral opposition.

*c) The metrical centre of the system is occupied (3) and discouragement of bilateral opposition traits add up to a polarized system (4).*

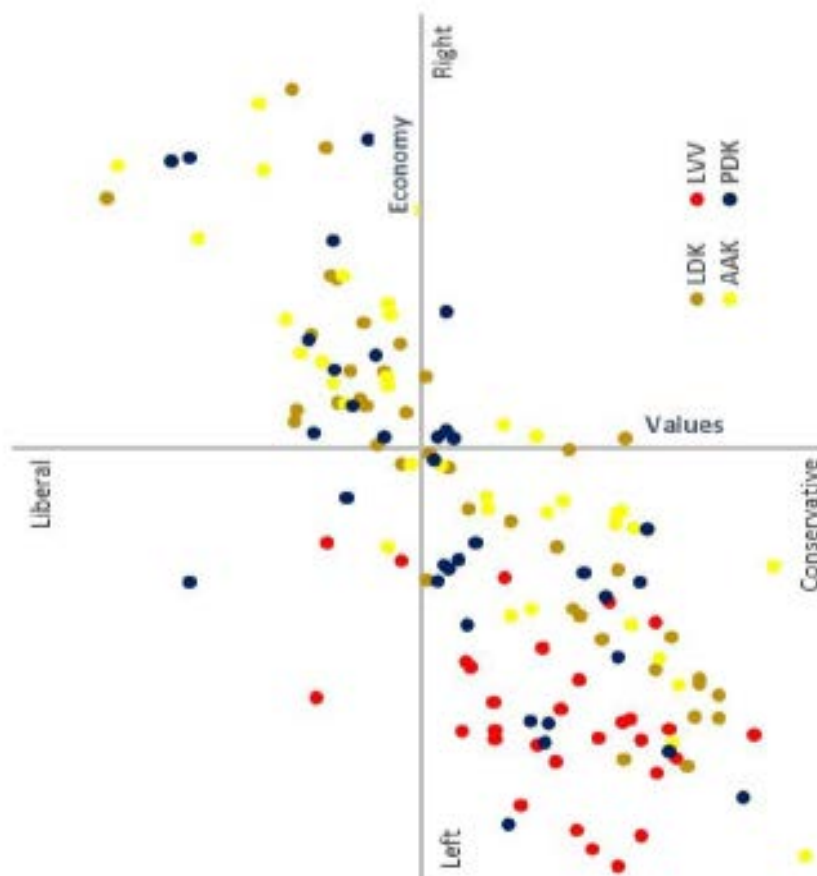
The political center being taken, and citizens disappointed, led to the opening of space for the centrifugal effect. Kosovo is specific due to the fact that in addition to LDK, the party which started its action as proto-party which peacefully fought for independence, other parties that represent ethnic Albanians emerged from the KLA (PDK, AAK, NISMA), so all these four parties are very cautious towards the United States and the Quint, but also towards international organizations that are in a way, at least some of them, the holders of certain sovereignty in Kosovo. The LVV does not belong to that group. LVV is strongly opposed to what the other parties had given consent to - the model of gradual acquisition of full independence of Kosovo.

By using the data from opinion polls in April 2016<sup>9</sup>, in graph 1 I positioned Kosovo's parties according ideological orientation, or as seen by their voters. On this scale, 0 is the final value of the left-wing, and 10 the final value of the right-wing. Value 5 represents the middle value, i.e. the political center. It is evident that the three parties that have been on the political scene of Kosovo for the longest time (PDK, LDK and AAK), cover the right center according to how its voters perceive them. Hence, this position is quite occupied. During the last election (2014), these three parties won 65.12 percent of votes. Therefore, it is clear that the new parties had to seek their own space away from the right center, which mobilized the highest percentage of voters' support during the elections of 2007. At the last election (2007) before LVV was founded, these three parties won 67 percent together, which is slightly higher than in 2014. Therefore, it seems logical that the new parties seek their voters away from the right center, i.e. in the left field, or further towards the radical left. In other words, the centre (the right one in the case of Kosovo) is fully occupied.

*d. Prevalence of the centrifugal drives over the centripetal ones (5) and congenital ideological patterning (6).*

Graph 2 shows where MPs of political parties see each of their parties. It was created by the Kosovo think tank D4D in 2013. It shows that the LVV MPs see their party exclusively on the left wing, very often on the far left, or almost exclusively in the field of conservative in relation to the liberal/conservative axis. Therefore, we can say that the MPs of LVV are, according to their own statements, the dominant conservative leftists with attitudes that often represent the extreme left. We can take this as a clear indicator of a definitive ideological orientation of the party, which mostly correspond with the electorate. When it comes to Sartori's criteria, we can say that there is a clear ideological relation.

**Graph 2:** Ideological map of political parties in Kosovo – How party officials see their own parties



**Source:** Malazogu and Gautam 2014, 60

e. Presence of irresponsible oppositions (7) and politics of outbidding or of over-promising (8). LVV is known for its radical opinions, and since it is not burdened by the possibility of coming into power, it makes its positions radical. This is particularly evident when it comes to its positions regarding the international administration in Kosovo (UNMIK, EULEX, etc.), representatives of the US and the EU, as well as towards its neighbours, besides Albania. Its aggressive approach towards other parties, throwing tear gas during Kosovo's parliamentary sessions, as well as unrealistic promises they provided during the campaign, tell us that in most of its activities, this party represents an irresponsible opposition.

Analysing the case of Kosovo and comparing it to the types defined by Sartori, Kosovo's party system can be classified as *polarised pluralism*. That being said, just as Sartori emphasises that there is no ideal-type model, i.e. that there are exceptions in terms of the characteristics that he divided by types. Kosovo party system does not represent an ideal-type model of polarised pluralism, some of its characteristics fit more or less within the Sartori explanation of this type. However, unlike Sartori who used historical examples to explain the polarised pluralism, the example of Kosovo can be used as a contemporary example of such a type of a party system.

**Table 7: An overview of post-electoral ruling coalition in Kosovo**

Elections	Coalitions
2001	LDK + PDK
2004	LDK + AAK
2007	PDK + LDK
2010	PDK + AKR + SLS
2014	LDK + PDK <sup>10</sup> + Srpska

**Source:** Skendaj 2014, edited by the author for 2014.

## Impact of party rules on intra-party democracy

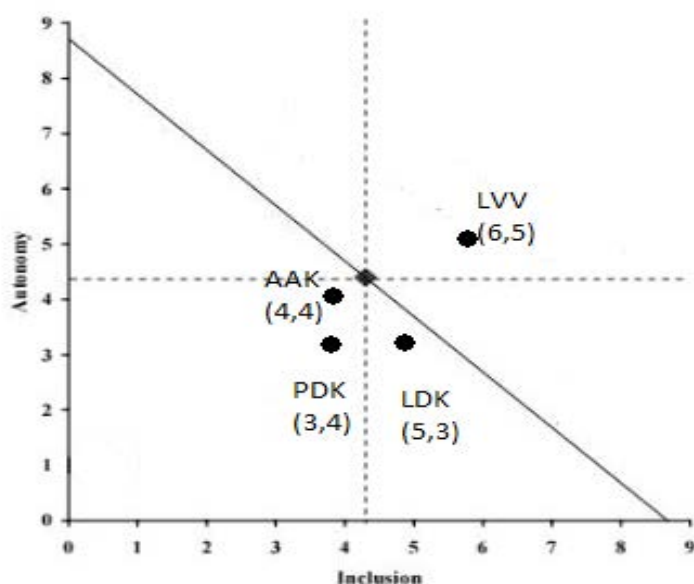
Analysis of party rules could be one of the ways to evaluate intra-party democracy. It is certainly not fully satisfactory, but it could set us in the right direction. It is hard to imagine a democratic party without democratic procedures, but on other hand it is not difficult to identify parties with advanced and democratic party rules but without no enforcement. In this article we will use findings from analysis of party statutes done by Ardit Orana. Orana used the Čular's model and analyzed the party statutes of four Kosovar parties. He selected the four main parties, PDK, LDK, AAK and LVV. We will underline some of his key conclusions.

After applying Čular's methodology, Orana, developed the following table (table 8) and graph (graph 4) which show that only one party, based on its statutes, fits the category of a fully democratic party. As a very controversial party, LVV represents a new political entity, compared to three other key political parties. "Even nowadays, same as throughout the entire post-war period, the political scene of Kosovo has largely been dominated by two political parties, PDK and LDK, which have the highest percentage of voters in both the central level and the local level. Although these two subjects simultaneously represent two different conceptual political wings – PDK as the war wing, and LDK as the 'peace' wing – ideologically these two parties are right parties" (Gjikoli 2015, 34). AAK is led similarly to PDK. "The highest form of power centralization is seen within the nature of the PDK and AAK; however, it is also obvious that the LDK has a substantial amount of centralization" (Orana 2016). The three traditional parties use similar patterns for their statutes, but on other hand, as a new political entity, LVV is showing a greater effort to increase its inclusivity and autonomy.

**Table 8: Dimension of inclusion and dimension of autonomy - Political parties in Kosovo**

Dimensions of Internal Party Democracy	PDK	LDK	AAK	LVV
Dimension of autonomy				
Members 'rights	1	1	1	2
Autonomy of local level	1	1	1	2
Local level influence on central party	1	1	2	2
<b>Total</b>	<b>3</b>	<b>3</b>	<b>4</b>	<b>5</b>
Dimension of inclusion				
Direct participation of members	1	1	1	3
Conventions vs. executives	2	2	2	2
Power of the president	1	2	1	1
<b>Total</b>	<b>4</b>	<b>5</b>	<b>4</b>	<b>6</b>

**Source:** Orana 2016, 74

**Graph 4: Dimension of inclusion and dimension of autonomy - Political parties in Kosovo**

**Source:** Orana 2016, 74

Regarding this methodology, we have to underline that it is based only on the analysis of party rules and their statutes, without analyzing the practice of their internal procedures. To analyze



a party in an objective manner from the inside is almost impossible as it represents a closed and non-transparent entity. The members of LVV directly elected their president, but these elections were held in a quite non-transparent manner and there was only one candidate for that position. It is very hard to define them as competitive. The former leader of the party, Albin Kurti, still represents the figure of the real leader, but he is acting more as a shadow leader. Public opinion survey conducted by IPSOS<sup>11</sup> in April 2016 showed that even more than one year after Visar Ymeri was elected a party president of Self-determination, Albin Kurti is much more popular with the party's electorate. When Self-determination's voters were asked which of the party's political leaders they trust the most, 54.26 percent selected Albin Kurti compared to 5.32 percent who selected Visar Ymeri. This shows who LVV's voters see as their leader.

## **Rule of Law**

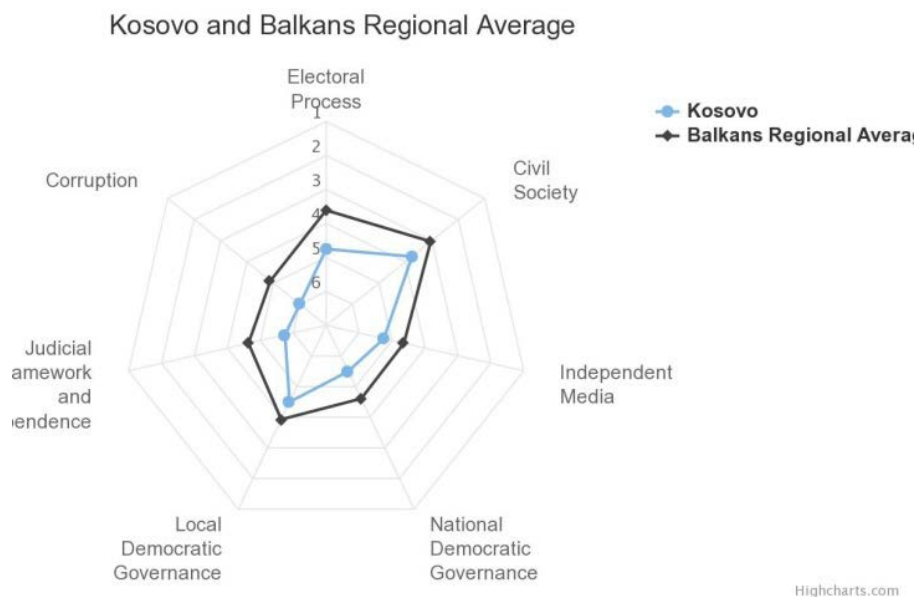
In 2015, Kosovo signed a Stabilisation and Association Agreement (SAA) with the EU despite the fact that five member states had not recognized its independence. Thanks to the new status, progress in further democratisation and law enforcement in Kosovo is monitored by the EU. The findings of the monitoring are published every year in annual report for Kosovo, stating the progress made in fulfilling obligations which Kosovo undertook towards EU accession. Reports show that the progress is very slow. When reading the Report on Kosovo for 2015, disregarding the diplomatic jargon, one realizes how far Kosovo is from an embedded democracy, i.e. to what extent it relies on international actors in its development. The statement that "Kosovo is in the early stages of preparation for fight against corruption"<sup>12</sup> is quite discouraging, and the statement of the Rapporteur of the European Commission on the EULEX activities that the corruption is omnipresent<sup>13</sup> is even harsher. According to the research of Nations in Transit, conducted by Freedom House, Kosovo is estimated as a semi-consolidated authoritarian regime. It is far from consolidated democracy with a score of 5.03 on a scale where one is the best, and seven is the worst result. According to this research, Kosovo progressed from 5.36 to 5.07 in ten years, which is more than slow.

**Table 9: Nations in Transit Ratings and Averaged Scores - Kosovo**

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
National Democratic Governance	5.75	5.50	5.25	5.50	5.75	5.75	5.75	5.50	5.50	5.50
Civil Society	4.75	4.50	4.50	4.25	4.50	5.00	5.00	5.50	5.50	4.75
Electoral Process	4.25	4.00	4.00	3.75	3.75	3.75	4.00	3.75	3.75	3.75
Independent Media	5.50	5.50	5.50	5.50	5.75	5.75	5.75	5.75	5.50	5.25
Local Democratic Governance	5.50	5.50	5.25	5.00	5.00	4.75	4.75	4.75	4.75	4.50
Judicial Framework and Independence	5.75	5.75	5.75	5.75	5.75	5.50	5.50	5.50	5.75	5.75
Corruption	6.00	5.75	5.75	5.75	5.75	5.75	6.00	6.00	6.00	6.00
Democracy Score	5.36	5.21	5.14	5.07	5.18	5.18	5.25	5.14	5.14	5.07

**Source:** Krenar Gashi, 2016. Kosovo. In: Nations in Transition 2016, Freedom House.

The civil sector is the only sector that has a good result, while others still have bad marks.

**Graph 5: Kosovo and Balkans Average**

Each spoke of the spider graph represents one category of NIT rated from 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The NIT 2016 ratings reflect the period from 1 January through 31 December 2015.

**Source:** Krenar Gashi, 2016. Kosovo. In: Nations in Transition 2016, Freedom House.

If we apply Merkel's typology, we could draw the conclusion that Kosovo represents a defective

democracy, i.e. that it belongs to *illiberal democracy with elements of veto players*. It is due to the atypical democratic transition that Kosovo represents an example of illiberal democracy, but with some elements of tutelary democracy. In Kosovo, UNMIK still has the power to revoke decisions of the executive, legislative and judicial bodies. In other words, that actor is above the democratically elected representatives, even though Kosovo declared independence and has democratically constituted authorities. However, other international entities can participate in decision-making processes too, such as EULEX. Also, the presence of the NATO military forces should not be ignored.

In addition to the presence of the veto actors, the defective democracy in Kosovo is strongly marked by the lack of horizontal power control, as well as undermined concept of the rule of law, which can be seen from the Freedom House Report for 2016 and previous years. It is the disruption of this concept that also influences the effects of the electoral system that, according to Merkel, belongs to the partial system of the democratic regime. Kosovo is not characterized by what represents the need of each embedded democracy and is provided through institutional guarantees, i.e. that “the democratically elected representatives rule by democratic and rule of law principles in the time period between elections” (Merkel 2011, 18). If the respect of this principle is not ensured, then the candidates in the elections are not fully equal, and parties’ members don’t have equal rights, which distorts the effects of the election system in use.

## **Party and candidate financing control**

The rule of law is extremely important when it comes to conducting elections, i.e. the equal positioning of the candidates in the electoral process. The issue of party financing has an important position due to the existence of personalized campaigns. The state finances parties in Kosovo to a significant extent. An amount equal to 0.17 percent of the total annual budget is allocated from the budget of Kosovo on an annual basis.<sup>14</sup> According to the amendments to the Law on financing of political parties from 2013, 10 percent of that amount is allocated for the work of MPs. However, there are no budgetary subsidiaries for financing individual campaigns of MP candidates. The same law stipulates that all parties and candidates should make all the payments and donations to/from a unique account of the party. However, it is impossible to check whether the law is respected. Namely, the amendments of the law on financing of political parties from 2013 stipulate that the control of financial performance is done by commercial auditors selected by the Parliamentary Committee for the Oversight of Public Finances. However, the responsible parliamentary committee has never selected auditors to conduct control of party’s financial reports. Consequently, the control has never been conducted since the most recent legal changes (2103).

The surveyed MP candidates have shared the data with CCS on how their campaigns are financed. It is evident that the amount of campaign funding varies at a great level. Thus, the funds invested in the campaign of individual candidate amount to €4,105, while the campaign of the ruling coalition candidate costs approximately €5,866, and €3,396 on average of the opposition. However, it should be highlighted that according to CCS, 7.5 percent of candidate spent over €10,000 for their campaign, while other candidates (1.2 percent) spend under €100. Also,

it should be noted that 16.6 percent of MP candidates/respondents stated that they personally invested more than €2000 in their own campaigns, which represents a direct violation of the law on financing of political parties, adopted in 2010, which stipulates in Article 4 paragraph 1 that there is a limitation that “natural persons should not exceed the amount of €2000 per calendar year.” Furthermore, some candidates invested over €15,000, or €25,000 in their own campaign. Unfortunately, since the last legislative amendments (2013), and the relocation of control from the Central Electoral Commission to the Parliament of Kosovo, no control has been performed.<sup>15</sup> It is evident that there are misuses in the financing of political parties and candidates, which puts the candidates themselves in an unequal position. Some are in a favorable position due to the fact that they invest a large amount of personal funds, others because the party provides great investments for them, and some thanks to the investments of third parties. Consequently, a great field of corruption is created. The system of control has proven to be inefficient. Thus, it is evident that the lack of the rule of law affects the performances of the very electoral system, given that without equal conditions for all candidates in terms of applying legislation, it is difficult to talk about the very effects of the electoral system on the candidates and political parties.

## Conclusions

Following Cox’s definition two key elements of the electoral system it can be noticed: (1) the set of laws and (2) party rules that regulate electoral competition between and within parties. It is evident from the above mentioned that certain segments of Kosovo’s electoral system have a contradictory effect. On the one hand, preferential voting, regulated by electoral law, encourages an intra-party democracy. On the other hand, poor procedures of candidate selection for MP function, as well as the lack of democratic leadership selection, defined by party rules, have a negative influence on the degree of democracy within the parties themselves in Kosovo. Kosovo political parties do not have party rules that would stimulate a stronger involvement of party members in procedures of selecting candidates for MPs, as well as in direct elections of party leadership. There are no legal provisions that would oblige political parties to democratize internal party procedures.

The impact of personalization of the electoral system on intra-party democracy in Kosovo is also strongly limited by the polarized party system and weak law enforcement. These conditions foster a non-competitive environment for candidate and party member activities, limiting the perspective of intra-party democracy. The lack of leadership transition in the political parties which emerged from the KLA also limits the process of democratizing political parties. Party members lack rights, and parties do not have democratic procedures for reconciliation of intra-party conflicts. As a result, factions often form new parties, which leads to fragmentation of the party scene and prevents the institutionalization of party system. The existence of bilateral opposition is blocking the opposition from being more effective in making governmental institution more accountable. The strong performance of the anti-systemic party is polarizing the opposition and deepening the gap between government and opposition, which is followed by moving the political and policy debates out of the institutions. The current lack of institutional dialogue is strengthening the positions of party leaders within parties and postponing intra-party democratization.

Moreover, weak law enforcement is endangering the electoral process as a whole. Voting on election day is not all about elections. Even if voting during election day is conducted more or less in line with international standards, in order to have truly competitive with equal conditions for all participants, rule of law should be imposed in a more effective way. Money in politics has an important role, especially considering that people can vote directly for candidates. The lack of party/candidate finance control is leaving a huge space for corruption and clientelism. More money means more chances to be elected, and more money beyond the legally allowed amount means more illegal influences on decision makers. Illegal financing of candidate campaign could influence their voting in the parliament, as well as weakening party cohesion. In the case of Kosovo, there is not any auditing, which leaves an open window for corruption and illegal financing which damage the equal position of all elections contestants.

Therefore, it can be concluded that the personalization of the electoral system in a defective democracy, based on findings from the case of Kosovo, only partially contributes to the strengthening of intra-party democracy. Preferential voting represents a strong incentive for intra-party democratization, but on other side, that process is limited by (1) lack of democratic party rules that regulate electoral competition within parties, (2) polarized party system and (3) weak law enforcement.

In order to strengthen the impact of the electoral system on the democratization of political parties in Kosovo, it is necessary to increase the degree to which the electoral rules allow voters to choose which individual candidates win seats within the legislature. Here I am referring to party rules on candidate and leadership selection. It is necessary to adopt the law on political parties and to apply it to determine the bases of democratic procedures, regarding the selection of MP candidates, the democratic selection of party leadership, and the party decision-making procedures. These solutions need to be followed by regulating the obligations of parties to keep accurate records of their membership in order to make sure who is included in the electorate when it comes to intra-party decision-making.

In order to eliminate the negative effect of the deficiencies of the rule of law, it is necessary to improve the legal provisions on financing of political parties, candidates and their campaigns, especially when it comes to effective control. If Kosovo wants to have effective control of financing of parties, candidates and their campaigns, then audits should be conducted by an independent, depolitized, professional body not influenced by the political parties themselves. Illegal, unfair and non-transparent financing of political parties and candidates has a negative impact on the development of intra-party democracy in Kosovo.

Preferential voting, as one element of the electoral system, strongly contributes to the further democratization of political parties. Thus it comes as no surprise that there were some initiatives from party leaders to abolish preferential voting, as part of the announced reform of the electoral framework. The introduction of closed lists, or limiting the number of preferential votes at a voter's disposal to one, which is being advocated for, would result in eliminating the beginnings of intra-party democracy in Kosovo, or bringing Kosovo back to the start of its multi-party system.

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#### **(Endnotes)**

1 “The seats allocated to a Political Entity in paragraph 2 of this Article shall be distributed to the candidates on the Political Entity’s candidate list as reordered in paragraph 4 of this Article, starting from the first candidate on the list in descending order, until the number of seats allocated to the Political Entity is exhausted. (Article 111, paragraph 5 Law No. 03/L-073 on General Elections in the Republic of Kosovo adopted in October 2008).

2 A voter shall be issued with a single ballot for the election and  
a) shall mark it with a vote for one (1) political entity, and b) may also mark it with votes for up to five (5) candidates from the list for the political entity for whom the voter has voted. (Article 110, paragraph 4 Law No.03/L-256 On Amendments to the Law No. 03/L-073 On General Elections in the Republic of Kosovo adopted in October 2010).

3 “In this regard, Kosovo parties and the party system in general appears to be centre-rightist. Each and every party declares themselves to be moving from the centre to the right. Based on such a proclaimed ideological party position, it can be concluded that if the Kosovo party system is to reflect society, then Kosovo society ideologically seems to be very homogenous and closed to becoming a monist society. However, the reality reveals something else: a high level of poverty, a high rate of unemployment, a working class with highly restricted rights and lacking even a labour law, a state without a healthcare system, and so on. All the current characteristics of Kosovo society, during the last ten years, demonstrate the urgent need for leftist parties as well, yet there are none among the relevant political parties in Kosovo. Every one of the relevant parties (not less than five of them), among Kosovo’s population of two million, labels themselves either as rightist or centre-rightist” (Smajljaj 2011, 151).

4 IPSOS, April 2016.

5 Respondents were asked the following question: “People in politics sometimes talk about left wing and right wing”. Where would you place your views on a scale from 0 to 10, where 0 means the far left, and 10 means the far right? The graph was made on the basis of responses of those respondents who identified themselves as voters of the mentioned parties.

6 Srpska List does not present a party, but a list of candidates under the control of Serbian authorities.

7 In these elections, PDK led the coalition which consisted by Party of Justice, Unity Movement, Albanian Christian and Democratic Party, Kosovska partija obnove, so the stated results represents the result of the coalition, rather than the result of individual PDK.

8 The Declaration of Independence was preceded by meeting the requirements, in accordance with the Ahtisaari plan for this act. Namely, Ahtisaari set the conditions for independence, and 41 legal texts were adopted in a very short period of time (120 days). Countries that supported the independence have continued to apply the Ahtisaari's plan, and establish institutions accordingly. For this purpose, the International Steering Group for Kosovo was established. Although there were several countries included in this group, i.e. 25 eventually, five of them were part of the so-called "Quint" (United States of America, United Kingdom, France, Germany and Italy). Quint countries assumed the greatest share of obligations, but also they had conducted a lot activities before adoption of Ahtisaari's plan. Factually Quint represents countries that were part Contact Group on the former Yugoslavia, but without Russia.

9 IPSOS, KIPRED, CeMI: Public opinion survey April 2016

10 In these elections, PDK took part in the coalition which also became an integral part of the Government.

11 IPSOS, KIPRED, CeMI: Public opinion survey April 2016.

12 European Commission - Kosovo\* 2015 Report, p.4.

13 Jacgué (2015). Review of the EULEX Kosovo Mission's Implementation of the Mandate with a Particular Focus on the Handling of the Recent Allegations. Page16.

14 "The Fund for Supporting the Democratization of Political Parties functions within the Central Election Commission and according to the first law, gets 0.17% of the annual budget. The amount dedicated to this fund, varies depending on the yearly budget. The distribution method of this fund to political parties is the responsibility of the CEC. This is done by CEC by distributing it to parliamentary groups according to the number of MPs." (Buzhala 2016, 2).

15 "Reports are audited by independent auditors, who until 2012 were selected by the CEC with an open tender. Since 2013 the auditors are not any longer selected by the CEC, but by the Assembly of the Republic of Kosovo, which in practice has not yet occurred. Election Reports of 2013 and 2014 have not been audited by the auditor yet, considering that in 2014, the Assembly was not able to select the audit company, initially on the grounds of the political stalemate" (Buzhala 2016, 3).






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## **PART III**

# **The Brussels Dialogue Between Kosovo and Serbia: Process and Implications**





# **The European Union and Peace Implementation: The case of Brussels Dialogue between Kosovo and Serbia**

**Cemaliye Beysoylu**

## **Introduction**

Since its onset in April 2011, the EU-led Brussels Dialogue aimed to find convergences between Serbia and Kosovo on a number of issues. This would contribute ‘to promote cooperation’ and ‘peace, security and stability in the region,’ ‘improve the lives of the people’ (see UNGA Resolution 64/298). The process of Belgrade-Pristina Dialogue does not aim to produce a comprehensive all-in-one peace agreement. It rather breaks down the complex issues into smaller, more technical components with an aim to find a deal that is acceptable to all stakeholders (Cooper 2015). The initial stage of dialogue focused on so-called technical issues. This first phase produced a number of agreements; return of civil registry books and cadastral records to Kosovo, ensuring freedom of movement across the borders, mutual recognition of diplomas, customs stamps, Kosovo’s regional representation, telecommunications and integrated border



management (IBM) between Kosovo and Serbia. Right after, the process rapidly advanced to a high-level political dialogue to find a solution to a most challenging issue of the Belgrade-Pristina relations: sovereignty over northern Kosovo and integration of Kosovo Serbs inhabiting the northern side of the Ibar River. The dialogue reached a milestone development in April 2013, with the signing of the First Agreement of Principles Governing the Normalization of Relations (hereafter the First Agreement). The 15-point agreements proposed a number of provisions to abolish parallel Serbian institutions in the north and integrate Kosovo Serbs into Kosovo institutions. The agreement is often referred to as the most important achievement of the process, creating high expectations in solving the ongoing state of dual-sovereignty of the northern territory of Kosovo. Later, the dialogue continued focusing on resolving the number of open issues that emerge from the implementation of the previously agreed accords, as well as finding solutions to remaining open issues such as telecom and energy.

The implementation of these agreements and rendering the positive trend of normalization on the ground has proven to be a difficult task<sup>1</sup>, with occasional low scale violent incidents erupting in some instances<sup>2</sup>. The issue of the formation of the Association/Community of Serb majority municipalities turned into one of the biggest political crises Pristina experienced since Kosovo declared independence. Recent reports from Kosovo and Serbia declare that the implementation process progresses at a snail's pace, while a 2015 civil society report highlights that only four of the total seventeen agreements reached during Brussels Dialogue are fully implemented (Big Deal: Lost in Stagnation 2015) (also see table 1).

The few recent papers published on the prospects of the Brussels Dialogue focus on a number of factors to explain the persistence of the crises; ranging from the non-participatory nature of the process to lack of transparency (Beha 2015; Ernst 2014). However, scholarly efforts dedicated to the Brussels Dialogue and its conclusions primarily focus on theorising and understanding the EU's mediation efforts (Bergmann and Niemann 2015; Bieber 2015; Visoka and Doyle 2016) and the conditions and tools of the EU in getting parties to sign agreements through the framework of Europeanization (Economides and Ker Lindsay 2015). Some other scholars, such as Ernst (2014), Martino (2014) and Beha (2015), focus specifically on the disputes over the so-called the First Agreement. Many interpreted the signed agreements as a major step forward in normalizing relations between the disputants (Bieber 2015; Economides and Ker Lindsay 2015). However, analysts so far have paid scant attention to the process of implementing the signed accords.

This paper aims to focus on the implementation process of the Brussels Agreements. Here, the question I pose is *'Why has the implementation of Brussels Agreements proven to be so difficult?'*

Peace implementation covers the brief period after signing of an agreement, and focuses on turning provisions of the signed accord into actions. Scholarly efforts on peace implementation rightfully agree that reaching a negotiated settlement does not automatically produce peace (Bekoe 2008; Hartzell et al. 2001; Lickider 1995; Walter 1997). Notions of peace implementation primarily focus on three intertwined dimensions of the process; the role of the continuing international involvement (Frazier and Dixon 2007; Steadman 2002; Walter 1997; Hampson 1996), sincerity and capacity of the domestic actors to fulfill their commitments (Hehn 2011; Bekoe 2008) and the content and clarity and capacity of the agreed provisions to guide the implementation process (Hehn 2011). Along these lines, analysis is conducted to understand

conducive and prohibitive factors that are influencing the process of implementation through scrutinising the content and clarity of the agreed provisions, the approach of the facilitator and the tools in use as well as attitude and readiness of disputants vis a vis the declared aims of the dialogue.

Analysis reveals that in the case of the Brussels Agreements, the issues of the peace implementation process are less straightforward than the claims of the current literature and to understand the conducive and prohibitive factors of the process. Attention must also be paid to the dissonance between the logic of the EU and the way adversaries perceive the conflict. This paper argues that the issue is less straight forward and that attention must also be paid to the dissonance between the logic of the EU and the way adversaries perceive the conflict. The paper proposes two intertwined dimension of the issue that serve as the main factors to stall the implementation of the agreements. Firstly, the stalled implementation process is an inherent part of the EU's hybrid fragmented approach which combines neo-functionalism and constructive ambiguity. Accordingly, the technical issues are back and forth on the negotiation table either due to the ambiguous aspects that lead to partial implementation and/or when the issue overlaps with other more contentious issues. The process progresses in these cycles for some time until all these more ambiguous aspects are clarified and implemented. The second factor that stalls the implementation of agreements is the dissonance between the logic of the EU and the way adversaries perceive the conflict. Despite the EU's neo-functionalist advancements, for the adversaries, the issue is still about territory and sovereignty. Therefore, every advancement in the dialogue that is related to the issues of territory and sovereignty becomes a heated domestic debate. When it surfaces, it prolongs or hampers the implementation process.

The paper provides an empirical contribution emerging on peace implementation by using the case of Brussels Dialogue and the Brussels Agreements. It also enhances our understanding of the factors that stall the process of normalization between Serbia and Kosovo. It proceeds as follows: first, we assess the theoretical considerations to peace implementation and identify the main dimensions of the process to serve as an analytical framework. The second section explores the EU's role and capacity as a facilitator of the process. The third section moves the analysis into revealing the interplay between three main dimensions of the issue: the facilitator, the local actors and the text of the agreement itself. In so doing, this interprets the data collected through desk research and interviews with major political parties and civil society representatives in Pristina in October 2016.

## **Theoretical Considerations: Challenges/Dimensions of Peace Implementation**

Negotiated resolution of an intractable conflict is a rare commodity but not the final challenge in the effort to build sustainable peace (see Walter 1997; Hartzell et al. 2001). Since the end of Cold War, we witness a growing tendency to resolve internal conflicts through negotiated settlements. In the wake of such negotiated settlements, delivering the provisions of the signed accord remains the thorniest issue. Relevant literature demonstrates that signing of an agreement does not automatically result in peace and the outcome of the post-agreement phases is not unanimously positive (Lickider 1995; Bekoe 2001). The period is characterised by risk and

uncertainty and is particularly prone to escalations in tension (Jones 2001, Steadman 2002). Analysing the outcomes of 91 post-1945 civil wars, Lickider (1995) suggests that only half of the negotiated settlements survive through the following five years (Lickider 1995, 685). A more recent work by Hartzell et al. (2001) suggests that reaching a negotiated settlement is only the first phase to attain peace. This section is dedicated to provide an overview of the literature concerned with peace implementation to guide our analysis of the implementation of the Brussels Agreements.

The implementation period, often referred to as ‘peace implementation,’ covers the short period of time immediately after the signing of a peace agreement. This short period deals with “the totality of the relationships and activities involved in implementing the decisions adopted as part of a peace agreement” (Taylor and Jennings 2004, 8). In other words, this is the period that parties implement the provisions of the agreement. The post-agreement phase is the period of high hopes and expectations. The former adversaries are expected to engage in a process of cooperation. Those concerned with enhancing the likelihood of peaceful settlements to bring peace and stability explores the impact of various interconnected variables. Literature suggests various indicators to measure success in peace-building, ranging from institutional and structural reforms to increasing democratic qualities to various other socio-economic and political ameliorations. However, the success of the brief period of peace settlement is often measured by looking at the ability to end violence and disputants’ level of compliance with their written commitments (Steadman 2002). Literature on peace settlement lists major dimensions of the process, affecting the likelihood of the accord to be meaningfully implemented in the post-agreement period. By building on this flourishing literature, we divide these variables into three broad categories and established a working framework to facilitate the analysis.

Firstly, efforts devoted to understanding the post-agreement phase marks the importance of third party involvement as a crucial element to ensure effective implementation (Hampson 1996; Steadman 2002; Frazier and Dixon 2007). International mediators and implementers are given pivotal importance in facilitating and -when necessary- enforcing the implementation of the signed accords (Steadman 2002; Jarstad 2015). Steadman (2002) concludes that international implementers must invest greater amount of financial and human resources and adopt more coercive strategies. Walter (1997, 336) dispels the approaches that ascribe the failure of negotiated settlements to “power asymmetries, indivisible stakes, bargaining difficulties, or opposing identities.” She proposed that the main reason for failure is the fact that adversaries are incapable of ensuring requisite security and that the settlement will only be guaranteed if the outsiders are willing to stay throughout the process of implementation (Walter 1997).

Secondly, some studies suggests that the greater role and “the primary burden of building peace lies with domestic actors” (Hehn 2011, 34). Bekoe (2008) as well reinforces the argument that the prime responsibility falls on the shoulders of the local stakeholders, suggesting that this is the period in which disputants learn to manage their disagreements and ensure that tension is mitigated. In doing so, disputants weigh each other’s sincerity and the level of vulnerability that may emerge as a result of implementing certain provisions. In evaluating the role and position of the disputants, Bekoe (2008) asserts that mutual vulnerabilities, in other words the way local actors constantly evaluate comparative military, political and economic advantages of the negotiated settlement for themselves and for the other parties, is an important determinant that shapes their willingness to facilitate or hamper the implementation of certain provisions.

Beside the terms of the agreement and the involvement of third party actors, support from their constituencies also plays a crucial role in how the local actors weight their mutual vulnerabilities (Beha 2015). Accordingly, the implementation process will only advance if the disputants' mutual vulnerabilities are balanced (Bekoe 2008).

Third, the agreement itself constitutes an important dimension of the post-agreement phase. Studies conducted on this issue underline three important dimensions of the agreement as important determinants: content, clarity and the provisions to guide the implementation process (Hehn 2011). Clarity of the texts is an important indicator to reduce the level of post-agreement discrepancy (Hehn 2011). While some agreements authorize formation of an implementation committee, others remain silent about this phase. One of the commonly mentioned issues relevant to negotiated settlements is the deliberate use of constructive ambiguity, a term coined by political scientist and former American Secretary of State Henry Kissinger. The concept simply means 'the deliberate use of ambiguous language on a sensitive issue in order to advance some political purpose' (Berridge 2003). It refers to both the negotiations and the wording of the actual text agreed upon. Its facilitative role in the successful closure of negotiations on controversial topics is credited by many (see Fischhendler 2008; Jegen and Merand 2013; Rayroux 2013). It is a strategic move to be implemented "in circumstances where clarity would create strong opposition" (Jegen and Merand 2013, 182). Hence it is used in some peace processes and very often associated with the negotiation process and wording of the Good Friday Agreement of the Northern Ireland peace process (see Dingley 2005; Mitchell 2009). Mitchell (2009) highlights two potential contributions of constructive ambiguity to peace processes which are also related to this paper. Agreeing on less controversial issues sooner and deferring the difficult ones to a later stage may create time to foster cooperation and trust between the adversaries (Mitchell 2009). This also prevents the controversial issues from standing in the way of a deal that could be reached on other issues (Churchman 1995, 9). If there was not the factor of constructive ambiguity which manifested itself as the ambiguities within it, the Good Friday Agreement may have not been possible to reach (Gudgin 2009, 72). Additionally, constructive ambiguity allows negotiators to interpret the concessions made and the process of the agreement according to their perceptions to persuade their constituencies on the agreed upon terms (Mitchell 2009, 323). However, "constructive ambiguity has a perilous double-edged character," which means that while it facilitates the signing of new agreements constructively; it also carries the potential of creating more problems than it solves (Mitchell 2009, 323).

The very nature of constructive ambiguity renders any peace process vulnerable for three main reasons. First, the process is built on the lack of precision and clarity and therefore exposed to the risk of the different interpretations by the public (Dingley 2011). The lack of precision and clarity implies "the lack of objective truth" about the conflict (Dingley 2011, 5). Second, extensive use of ambiguous language in the text may bedevil the implementation process (Gudgin 2009; McGrattan 2009, 151-152; Mitchell 2009, 323). Third, the combination of these factors may cause frustration among the public and people could lose trust in their political representatives and the negotiators (Mitchell 2009; Gudgin 2009). Hence, despite being a useful tool, ambiguity is something to be used sparingly and with great caution (Zartman & Berman 1982, 183). In sum, the literature on peace implementation proposes the continuing involvement of the international capacity and perceptions of the local actors and the terms of the agreement as the major dimensions of the implementation process. These theoretical considerations are utilised to guide the analysis below.

## The Process of the Brussels Dialogue

Previous rounds of negotiations in Rambouillet in 1999 and in Vienna in 2006 failed to produce a comprehensive settlement for Kosovo, especially its predominantly Serb northern area. Since Kosovo's declaration of independence in 2008, the most troublesome issues between Belgrade and Pristina have been sovereignty over the northern territories, the continued existence of Belgrade's parallel institutions and the refusal of Kosovo Serbs inhabiting the North of the Ibar River to fully integrate in Kosovo (see ICG 2008; ICG 2011). The Brussels-mediated attempt to find a solution to lingering open wounds came in the wake of the International Court of Justice's (ICJ) 2010 opinion which declared Kosovo's declaration of independence to be in accordance with international law.

Based on the UNGA Resolution of A/RES/64/298 of September 2010, the dialogue begun in March 2011. It was facilitated by European Union External Action Service (EEAS) Councillor Robert Cooper, who was later replaced by Italian diplomat Fernando Gentilini. Disputants were represented by Kosovo's chief negotiator Edita Tahiri and her Serbian peer Borko Stefanovic and first focused on solving so-called technical issues. The process yielded results early and between 2011 to May 2012 the parties signed agreements on several issues: return of civil registry books and cadastral records to Kosovo, ensuring freedom of movement across the borders, mutual recognition of diplomas, customs stamps, Kosovo's regional representation, telecommunications and integrated border/boundary line management (IBM) between Kosovo and Serbia.<sup>3</sup> Agreements on Kosovo's regional representation and IBM are especially praised to be the most important achievements of this period (Bergman and Niemann 2015:965).

The major milestone of the process came in 2013. In April of that year, Kosovo and Serbia reached a landmark deal in Brussels in the tenth round of high-level negotiations, the first agreement governing their bilateral relations since Kosovo's declaration of independence. The risky move of turning the technical dialogue into a political one between Serbian Prime Minister Ivica Dacic, former spokesperson of Milosevic and his Kosovar counterpart Hashim Thaci, former Political Chief of Kosovo Liberation Army (KLA), turned former enemies into potential peace builders (Beha 2015).

The 15 point Agreement aims to integrate the four Serb majority municipalities of northern Kosovo — Leposavic, Northern Mitrovica, Zvecan and Zubin Potok—into the constitutional and legal system of Kosovo through establishment of a system of local government: an Association/Community of Serb majority municipalities. The Association/Community is to have “full overview of the areas of economic development, education, health, urban and rural planning” (The First Agreement 2013). Once the Association/Community is established, its membership will be open to all other Serb majority municipalities upon request. The Agreement also guarantees that all Serbian security structures in the North will integrate into Kosovo institutions, there will be one Kosovo Police force and existing members of Serbian security structures will be given a place within the Kosovo system. The Police Regional Commander will be a Kosovo Serb and appointed by the Kosovo Ministry of Internal Affairs from the list provided by the Association/Community. Additionally, a Court of Appeals is to be established, composed of primarily Kosovo Serb judges. The Agreement postpones decisions on other technical issues of Energy and Telecoms be dealt in the following rounds. Many, including the EU who facilitated the deal and major



international actors (US, OSCE, NATO, UN) hailed the agreement as a historic break-through not only for Kosovo-Serbia relations but for the rest of Western Balkans (For a collection of international reactions to the deal see EEAS 2013). Some international media outlets as well declared it as 'historic' (Guardian 2013) and 'breakthrough' (Economist 2013).

Also in September 2013, parties reached to two more agreements on telecoms and energy. Kosovo's chief negotiator and Deputy Prime Minister Edita Tahiri (2013) declared that the agreements "allow for the establishment of interstate cooperation between Kosovo and Serbia," according to international standards and will put an end to illegal telecom and energy operators. Kosovo was expected to receive an international telephone country code, +383, from the International Telecommunications Union, or ITU (Agreement on Telecom 2013). For energy, KOSTT, Kosovo's energy transmission authority, is supposed to join European and regional organizations (Agreement on Energy 2013).

Shortly after these developments, in 2014 all stakeholders of the dialogue entered into the electoral process. In Serbia, after the electoral victory of the Serbian Progressive Party (SNS), Aleksandar Vucic formed a new government. However, in Kosovo, inconclusive election results plunged Pristina into six months of political deadlock. This prolonged the continuation of negotiations until February 2015. In December 2014, two major parties in Pristina PDK and LDK formed a government with the Srpska Lista, a Serb minority party created before the 2013 municipal elections as a direct result of the Brussels agreement. The dialogue resumed only in 2015 when Serbia's Vucic met Kosovo's new Prime Minister Isa Mustafa under the facilitation of the new EU foreign policy chief, Federica Mogherini to discuss the issue of the judiciary's functioning in the northern Kosovo as predetermined in the First Agreement (Poznatov 2015). In August 2015, parties reached four new agreements. The first fleshed out in more depth the establishment of the Association/Community of Serbian Municipalities. Other agreements tried to unblock thorny issues of energy to allow Kosovo Serbs having their own supplier and vendor of electricity; on telecoms to get Kosovo its country code by March 2016; and one foreseeing the opening of the revitalized Mitrovica Bridge for all traffic by June 2016.

However, recent reports from Kosovo and Serbia declare that implementation process progresses at a snail's pace. In 2015, a civil society report titled "Big Deal: Lost in Stagnation" declared in its comprehensive analysis that only four of the total seventeen agreements reached during Brussels Dialogue are fully implemented (Big Deal: Lost in Stagnation 2015). The most recent progress reports issued by Belgrade and Pristina expressed some satisfaction with the implementation of the conclusions on IBM, Kosovo's regional representation, Freedom of Movement, Custom Stamps, Civil Registry Books, Cadastre, and Recognition of University Diplomas, which were all signed back in 2011 (for further details; Government of Kosovo 2016; Government of Serbia 2016). There are still some contentious issues in some of these fields that need further effort to be solved (see table 1 for details). Despite parties' declared satisfaction, some issues related to the technical agreements signed in 2011 and 2012 and praised as 'the top achievements during this phase (European Parliament 2016) -such as freedom of movement and IBM- are still on the table for further clarification, or have components which need further clarification (European Western Balkans 2016a; 2016b). Also, the negotiations on the issues of Energy and Telecommunication began as a part of the technical dialogue, but these issues have been included into the latest phase of the political dialogue. The renewed, more comprehensive agreements were signed regarding both issues in 2015. According to the recent reports by the governments

of Kosovo and Serbia, implementation of these agreements is stalled (Government of Kosovo 2016, Government of Serbia 2016).

The current picture reveals that while the implementation of provisions on politically sensitive issues such as the Association/Community of Serb municipalities are the thorniest, even some seemingly straight-forward technical provisions are stalled for a considerable period of time before they are implemented properly. Despite all the enthusiasm and the noble aims of promoting cooperation and improving the lives of ordinary people (see UNGA Resolution 64/298), *why is it that even the seemingly straight-forward technical issues are taking such a long time to be implemented? What is the role of the EU as a facilitator of the process to ease the obstacles of the implementation stage? Why do Kosovo and Serbia both struggle to deliver on the commitments made in the Agreements?* The next section focuses on the implementation process and its obstacles to analyse the factors that have had a profound impact on the process under the guidelines of the theoretical dimension proposed by the theory section of the paper.

## Understanding the Conducive and Prohibitive Factors

### **The EU's Hybrid Strategy: Neo-functionalism, Conditionality and Constructive ambiguity**

As proposed by the theoretical section of this paper, the third party's negotiation strategy and its continuous involvement in the implementation process constitutes an important dimension. This renders understanding the EU's strategy, involvement in facilitating the dialogue as well as the implementation crucial for this analysis. The EU is confident that it is a supremely successful peace project which 'has underpinned the reconciliation and peaceful development of Western Europe over the last half century, helping to consolidate democracy and to assure prosperity (European Commission 2001, 5) and it has already contributed to 'a more secure world' beyond its borders (Council of the European Union 2003, 9). With this confidence, in 2011 the Union assumed one of its most challenging peace-building tasks in the Western Balkans, facilitating the Belgrade-Pristina Dialogue. In facilitating the Belgrade-Pristina dialogue, I propose that the EU uses mixed tools, blends its integration framework and conditionality with an approach called by Visoka and Doyle (2016) *neo-functional peace*. To elaborate on the use of the EU's mix approach, the paper identifies three main characteristics of the EU's facilitation effort present during the course of negotiations as well as the implementation phase.

First, through the deliberate choice of neo-functional peace, the EU broke a tough political issue into small technical ones to facilitate the discussion, relying on the possible spillover effect of the agreements achieved on easier issues to facilitate the bigger ones (Visoka and Doyle 2016). Accordingly, the facilitator does not aim to reach an all-in-one grant peace agreement; it rather capitalizes on the notion of normalization of relations to begin the process with smaller technical issues, which are easier to agree on. In this context "normalization means that parties treat each other as normal partners in the region and have no practical problems... So it is about making your and my life easier".<sup>4</sup> Interviews with EU officials confirm our understanding of the EU's strategy to facilitate the process. Quoting from interviews, EEAS and European Commission officials declare that:

*...when you resolve a number of practical problems, you already create a much better atmosphere, a climate for discussion to take place about other issues. People can see that they can work with each other. You can trust each other and as you know trust is essential in conflict resolution<sup>5</sup>.*

Accordingly, the Union expects the spillover effect of technical dialogue will facilitate the resolution of the tougher issues<sup>6</sup>.

Secondly, the EU's self-declared method of constructive ambiguity plays a role in facilitating the discussion and drafting mutually acceptable documents<sup>7</sup>. Accordingly, this 'deliberate choice of the Commission to avoid mistakes by defining things upfront and creating constructive ambiguity' leaves a space for flexibility to reach novel and acceptable solutions.<sup>8</sup> The strategic use of ambiguity is present in the wording of the various agreements signed throughout the Brussels Dialogue.<sup>9</sup> Robert Cooper acknowledges that ambiguity is put into the wording of the agreements by declaring in an interview that, "Well, the language of the agreement is sometimes ambiguous" (Hanson's interview with Cooper 2015). He adds that even in the case of ambiguous language "both sides knew perfectly well what they'd agreed" (Hanson's interview with Cooper 2015). Still, Cooper recognizes that the use of ambiguity may result in looking back at some issues to revise or improve them if there is a need (Hanson's interview with Cooper 2015). In practice, this neo-functional approach results in deconstructing the contentious issues into their components to find acceptable technical solutions (Visoka and Doyle 2016). Combined with constructive ambiguity, this approach is effective to ensure continuity of the dialogue and get parties to sign numerous documents.

Third, the EU employs its tool of conditionality, skilfully stipulating that no accession can be realized without normalization of their relations (see Council of the European Union, 2008). Internal divisions regarding Kosovo's international status prevent the EU from conditioning recognition of Kosovo as a clause in its accession negotiations with Serbia. To the contrary, occasionally the EU declares that Serbia does not have to recognize Kosovo to join (Balkan Insight 2012). Still, the use of conditionality manifests itself in instances that the Union utilises it to compel the political actors to adopt de-securitization strategies. The 2008 Council conclusions call on Serbia to "[c]ooperate constructively on matters relating to Kosovo" (Council of the European Union 2008). Later this clause was also inserted into the accession framework of Serbia under the chapter 35 (Council of the European Union 2008)

The EU's neo-functional stance has proven effective in initiating the process of dialogue. The effective use of conditionality has proven successful to get parties to agree on concessions on a range of issues. And constructive ambiguity has facilitated the process by convincing actors to sign the ambiguous agreements that concessions were tough to make, including the First Agreement of Principles Governing the Normalization of Relations. Many articles and papers on the process also praise the EU for its achievement to use its membership conditionality effectively to reach concrete results (Martino 2011; Ernst 2014; Economides and Ker-Lindsay 2015; Visoka and Doyle 2016). The success of conditionality is evident from the first round of the process. The EU linked normalization to the prospect of the disputants' EU integration processes. Upon the completion of the technical agreements, Serbia was granted candidate status and a feasibility study was launched on the Kosovo's long awaited Stabilisation and Association Agreement (European Parliament 2016). Signing the First Agreement of 2013 is also a direct reaction to the increasing pressure on both sides to deliver success and the EU's carrot of membership. In



2013 all parties –including the EU- were under pressure to reach concrete results. Elections were looming for all parties in 2014, and EU High Commissioner Catherine Ashton was under pressure to deliver success before her replacement was elected (Ernst 2014). Dealing with the worsening economic situation at home (see Bloomberg 2013), Serbia sought the opening of membership negotiations. Kosovo still seeks to gain recognitions from five EU members their non-recognition and sought at that time the opening of the long waited Stabilisation and Association Agreement (SAA) negotiations. EU diplomats and especially EU High Representative Ashton explicitly asked the disputants to reach a concrete agreement in 2013 (Bajrami 2013, 11-12). Upon its conclusion, both sides' expectations were satisfied. Serbia was rewarded with accession talks which were formally began on 21 January 2014 (Council of the European Union 2014). The EU opened the negotiations for a Stabilisation and Association Agreement with Kosovo (European Commission 2013).

The Brussels Agreements and especially the ones focusing on the settlement of north Kosovo have the potential to achieve a historic peace in the Western Balkans. Since Kosovo's unilateral declaration of independence the single most challenging issue between Belgrade and Pristina is the issue of sovereignty over the northern Kosovo. Therefore, the First Agreement of Principles Governing the Normalization of Relations is an important milestone in promoting the idea of "normalization of relations" between two sides without touching the sensitive issue of Kosovo's status and is often interpreted as a triumph for the EU's policy of 'constructive ambiguity' (Ernst 2014; Hanson's Interview with Cooper 2015). Despite its being only a two-page document composed of fifteen short articles, it contains the potential for a long-term solution to the state of dual sovereignty in north Kosovo (See Economides and Ker-Lindsay 2015). The agreement clearly indicates that the Serbian government has given up on the idea of partitioning the north Kosovo and has recognized Kosovo's authority over the territory. Second, as mentioned above, it is a success story for the EU, which previously imported other long-standing conflicts like Cyprus and Northern Ireland through enlargement, to instrumentalise its pre-accession mechanisms to reach a deal before membership. Third, the importance of the success of this agreement is related to the termination of the state of dual sovereignty in the north and integration of Kosovo Serbs to Kosovo institutions. Through reaching a consensus with Serbia, the Kosovo government found its long-awaited opportunity to seize control of its northern territories and the prospect of gaining Kosovo Serbs' trust.

*But how can the process of negotiation and its results be understood? What are the factors that hamper implementation? Why are some issues constantly back on the negotiation table?* The analysis reveals that despite its seemingly facilitative function, the neo functionalist approach and constructive ambiguity are also constraining factors contributing to the persistence of crises in the implementation stage. Some of these issues, such as retuning civil registry books to Kosovo, are easy to agree on and the implementation is straightforward (Hanson's interview with Robert Cooper 2015). Some other issues are far more challenging to get parties agree and implement. Accordingly, when the parties disagree on the implementation or a part of the implementation overlaps with this larger, more contentious issues, the deal returns to the negotiating table. In other words, ambiguities in the text of technical issues are resulting in even the seemingly straightforward issues. They keep returning to the negotiating table for some time until all these more ambiguous aspects are clarified. This is a product of the EU's strategic use of ambiguity where the process progresses in cycles; the ambiguous aspects of the primary agreements lead to partial implementation and when the implementation gets blocked by the initially facil-

itative ambiguities, then parties are back at the table to clarify the issues for a renewed attempt to implement the deal. In other words, when the neo-functional logic of the process met with extensive use of ambiguity, disagreements which surfaced during the course of implementation or when they touch upon larger and more contentious issues, the deal returns back to the negotiating table. Therefore the entire process of dialogue is characterised with this back-and-forth. Hence, the rising disappointment is partly about the fact that both parties are overlooking the fragmented, neo-functional nature of the process and praising their achievements too much and too soon. The fragmented inconclusive nature of the process and the ambiguities of the agreements turn into practical impediments to be tackled when parties attempt to implement them<sup>10</sup>. At the local level, ambiguities in regard to sensitive issues quickly succumb to adversaries' discordant perceptions of the subject matter and turn into political crises.

The first serious crisis of the process came in 2011 when a disagreement emerged over the implementation of the agreement on custom stamps, only two days after it was signed. When Kosovo authorities attempted to introduce customs control on two checkpoints on its border with Serbia, Serbia condemned the action and declared that these checkpoints were outside the scope of the agreement (Bajrami 2013). Kosovo Serbs gathered to protest in the northern part of Mitrovica and fortified barricades near the crossing points to prevent Kosovo official's actions. The barricades remained in place until the issue was back on the negotiating table and the parties agreed on its implementation (Bajrami 2013). The issue was later re-negotiated by the adversaries to find a mutually agreeable solution.

The 'First Agreement' was the one that caused biggest controversy. Initially, Pristina interpreted this as a major step by Serbia towards recognition of Kosovo's independence (Balfour and Pappas 2013) and ensuring their territorial integrity (Ernst 2014). For the government, it also meant the end of Belgrade's meddling in the north because of the planned abolishment of its parallel structures and having Belgrade recognise its internal electoral process (Martino 2014). However, for Belgrade, it meant ensuring the institutionalisation of ethnic-Serb politics within Pristina's political structures through the Association/Community of Serb-majority municipalities (Ernst 2014). The opposition end of the Pristina politics agrees with Belgrade's way of interpreting the First Agreement. For the opposition, the First Agreement establishes a structure similar to that of Bosnia's Republika Srpska in Kosovo<sup>11</sup> and a tool for even greater involvement of Belgrade in Pristina's internal affairs<sup>12</sup>. Consequently, its implementation has faced with rejection, especially rising from Pristina's opposition forces.

When the implementation process reached into a deadlock, the same way the other issues are back-and-forth on the negotiation table until they get fully implemented, the issue of the Association/Community of Serb-majority municipalities was back on the table in 2015 and resulted in signing of a more detailed deal, the August 2015 Agreement on Establishment of an Association/Community of Serbian Municipalities. When the Agreement signed it did not take too long before it sparks opposition protest.

In November 2015, the Constitutional Court of Kosovo has decided that the article of the First Agreement on establishing Association of Serbian municipalities was in violation of the Kosovo Constitution and suspended implementation of the Agreement. The court ruling of 2015 proposes that "[t]he Associations of Serb majority municipalities in Kosovo shall not have any executive power and shall not be a third layer of governance, as provided by the First Agreement of

25 August 2015” (Ministry for Dialogue 2016, 13). The opposition parties used the momentum built over the course of debates since 2013 to organize what Balkan Insight in 2016 reported was “the biggest protest yet against the establishment of an association of Serb-majority municipalities within Kosovo” in Pristina, which drew up to 60,000 people. The process entered a phase of uncertainty while the fate of Kosovo Serbs remained locked in the stalemate. At the time of collecting data, parallel Serb institutions were still present in northern part of Kosovo and the issue of the Association/Community of Serb municipalities was still a controversial issue. Therefore as concluded by a senior politician from NISMA<sup>13</sup>, the only achievement of the 2013 Agreement remains to be the fact that the municipal elections were conducted to enable Kosovo Serbs to elect their mayors.

## **Locals and the issue of Mutual Vulnerabilities**

The fate of the First Agreement and its more elaborated form of the August 2015 Agreement on Establishing an Association/Community of Serbian Municipalities, leads us to the second aspect of the implementation process: how stakeholders evaluate their mutual vulnerabilities to assess their position in regard to implementation. Both Pristina and Kosovo Serbs display reluctance to move forward. Pristina feels itself increasingly vulnerable to the pressure from the EU and treated unfairly during the course of the Dialogue.

Kosovo Serbs living north of the Ibar River are still sceptical about the future that is foreseen in the Brussels Agreements. To implement the provisions of the First Agreement, Kosovo launched municipal elections in November 2013 under the facilitation and observation of the OSCE. With Belgrade’s open support, northern Kosovo Serbs were expected to participate in municipal elections alongside the rest of Kosovo to elect four mayors that would be subservient to the Kosovo constitution. The first attempt to hold municipal elections according to the provisions of the First Agreement was marred by violence. Inattentive to the wishes of Belgrade, which was expecting to initiate membership talks with the EU upon successful completion of the elections, Serbs hardliners protested the organization of elections under Kosovo’s rule while intimidating voters in several polling stations (Reuters 2013). The OSCE cancelled these elections after violent interruptions in Serb populated regions (BBC 2013). The next round was conducted in December 2013, this time with no major incidents. Despite the experiences, the 2013 local elections were declared successful by the OSCE. The critically low electoral turnout (approx.10-20%) was not only a sign of an endemic sense of insecurity and uncertainty in the north (Balfour and Pappas 2013), but also an indicator of persisting resistance among Kosovo Serbs to integrate into Kosovo institutions. So this time it was local spoilers who are not directly part of the process and do not possess a real sense of ownership who jeopardized the implementation process<sup>14</sup>. Election results reveal that the political scene in the Kosovo Serb populated municipalities was dominated by the recently established Srpska Lista, which won all four municipalities in the north as well five others (Tërnavë 2014). Civil society representatives active in northern Kosovo claim that despite their increasing disenchantment with Belgrade, those inhabiting the North are still sceptical that Pristina offers them a better deal<sup>15</sup>. Kosovo Serbs’ reluctance is only due in part to patriotic reasons. The main reason the interviewee highlights is that they are sceptical about Pristina’s power to finance the institutions in the North<sup>16</sup>.

Serbia, also displayed a protracted period of reluctance to engage in dialogue with Serbia prior to the Brussels Dialogue. Belgrade softened its approach towards Kosovo only in the aftermath of the ICJ decision and embraces a more reconciliatory approach towards Kosovo. Often cited as the 'most reluctant Europeanizers' (Subotic 2010), this unexpected policy shift by Serbia is related to what Economides and Ker-Lindsay (2015, 1027) propose: 'policy Europeanization.' In other words, Serbia's policy shift is not accompanied with an embrace of the European way of dealing with conflicts (Economides and Ker-Lindsay 2015, 1027) but "a more short-term, interest based policy shift serving very specific economic purposes." Therefore, Serbia continues to re-evaluate its position during the course of implementing Brussels Agreements and continue its lower-key efforts to hinder the process where it deems necessary. For instance, speaking at the UN General Assembly in 2013 Serbian President Tomislav Nikolic, insisted that the First Agreement "in no way means that Belgrade intends to accept Kosovo's accession to the UN and other international organization" (B92 2013).

Lately, the rewards offered by the EU remain short to satisfy Kosovo Albanians. The most eager Europeanizer of the Western Balkans, with a record 89% level support to EU membership according to Regional Cooperation Council in 2015, is becoming increasingly estranged from the process. Thus we witness an increasing tendency in Pristina to think that dialogue does not have much to offer them<sup>17</sup>. Kosovo Albanians are increasingly critical about the EU's intentions and the process of dialogue and claim that the process is mostly helping Serbia to climb up the membership ladder<sup>18</sup>. They believe that it helps Belgrade satisfy their political ambition and their attendance to have a certain control of Kosovo, but when we talk about the life of people and the institutional setup of Kosovo, it is not helpful at all<sup>19</sup>. The terms of the First Agreement are interpreted by different actors of Pristina's political arena as an assault on Kosovo's sovereignty. The latest Kosovo Security Barometer notes that 71.7 percent of Kosovo Albanians oppose to the establishment of the Association/Community, perceiving it a harmful development for Kosovo (KSB 2016, 31). KSB (2016) assesses that increasingly negative attitudes of Kosovo Albanians are tightly related to the fact that this is the most discussed outcome of the Dialogue among politicians and media outlets. The issue soon turned into the most controversial issue of the dialogue with Serbia and deeply affected Kosovars perceptions towards the aim of the dialogue. Most Kosovo Albanians are disappointed with the process. While 55.9 percent believe that the dialogue did not contribute to the normalization of relations between Kosovo and Serbia, 45.3 percent of them believe that the process is there to accelerate Serbia's path towards the EU (KSB 2016, 29). The victory of the Belgrade-sponsored Srpska Lista in 2013 local elections is also factor that increases scepticism among opposition parties in Pristina that establishment of the Association/Community is a plot against Kosovo's sovereignty<sup>20</sup>.

In many aspects of its EU integration, Kosovo is still at a standstill. Similar to the period of endless supervision, the EU has to deal with the sensitive issue of status, as well as its own internal division about the matter. Kosovo authorities have not shown such resistance to the international community's demands before. A former MP from AAK explains that the early enthusiasm about Kosovo's 'European perspective' has disappeared. Kosovars exhausted by EU conditionality and the EU hopes for Kosovo's integration is becoming a political narrative<sup>21</sup>. In regards to conditionality, interview data suggest that there is an increasing feeling that Kosovo is treated unfairly. The most marked issue is the delayed visa liberalization and the condition of border demarcation with Montenegro. By referring to the condition of border demarcation with Montenegro, interviewees suggesting that the issues that are not used as a condition for other

nations of the Western Balkans are imposed upon Kosovo<sup>22</sup>.

Therefore, evaluation of mutual vulnerabilities confirms that the motivation to normalize relations is more about Serbia and Kosovo's desire to please the EU and climb the ladder of membership. However the concessions that were achieved through use of conditionality are not altering the disputants' perceptions. Despite the EU's neo-functionalist advancements to deconstruct the contentious issues and prioritise the people who are directly affected by the conflict, for the adversaries the issue is still about territory and sovereignty. Every progress is related to the issues of territory and sovereignty becomes a heated domestic debate, because every aspect of the so-called technical dialogue is highly political and directly related to the issue of Kosovo's status.

Consequently, the blame game continues in the periodical progress reports prepared by disputants on the implementation of agreed deals. In the latest implementation report prepared by the Government of the Republic of Kosovo, Serbia is criticised with a strong language for plotting against Kosovo's integration process, violating the principles of the First Agreement by supporting parallel municipal structures in the North (Ministry for Dialogue 2016). Kosovo conditions the establishment of Association on the removal of the Serbia's parallel municipal structures (see Ministry for Dialogue 2016). Kosovo- the actor with admittedly no political leverage<sup>23</sup> -threatened to block the next round of the EU-led dialogue unless the EU moves forward with the visa liberalization. The Kosovo government withdrew this threat shortly after and did not boycott the resumption of talks in January 2016. Lately, the opposition's securitization discourses resonates among the government as well. Edita Tahiri declared that Serbia has to recognize Kosovo if it want to join the EU (Tahiri 2015). Therefore, the recent developments are a clear indicator that Kosovo is not anymore satisfied with the rewards of the process and does not see the need for further compromise<sup>24</sup>.

These developments clearly indicate that the disputants and the EU overlooked actual declared aim of the dialogue. The process is not valued for what it promises to deliver: normalization of relations and improvement of the daily living conditions for locals. It is rather a bargaining chip for both to advance their EU integration aspirations. The EU's neo-functional logic is struggling to deliver on its promises of normalization and spillover in the world of not so neo-functional disputants. Unless the disputants' perceptions change to value the dialogue for its prime aim, the EU's room for manoeuvring is likely to shrink and local stakeholders will remain to feel alienated. The process will struggle to deliver other concrete results.



## Conclusions

Since its onset, the Brussels Dialogue has brought considerable progress, produced numerous agreements ranging from straightforward technical issues to more sensitive political ones. The biggest achievement of the process has been the success of finding a formula to settle the issue of sovereignty over northern Kosovo and provide for Kosovo Serbs' integration to Kosovo. However, agreements signed in Brussels with high enthusiasm have proven difficult for both governments to implement. We have argued here is the implementation of Brussels Agreements has proven difficult due to two intertwined factors.

First, the third party's deliberate choice of neo-functionalism and constructive ambiguity are not as facilitative in the implementation process as they are during the course of negotiations. The neo-functional approach, as labelled by Visoka and Doyle (2016), combined with constructive ambiguity, do not aim to reach a all-in-one peace agreement, but rather bite size acceptable decisions by breaking tough political issues into small technical ones<sup>25</sup>. Supported with conditionality, the EU relies on the possible spillover effect of these technical agreements to contribute by building trust and collaboration between adversaries, which in turn will facilitate agreements on tougher issues. However, the despite its seemingly facilitative function, the neo-functionalist approach and constructive ambiguity turn into constraining factors that contribute to the persistence of crises in when it comes to implementation.

The neo-functional negotiation strategy of breaking issues into small technical topics and ambiguities in the text of technical issues has resulted in even straightforward issues being sent back-and-forth for negotiations, in a process repeated until all these more ambiguous aspects are clarified. In other words, the stalled implementation process is an inherent part of the third party strategy where the process progresses in cycles. The ambiguous aspects of the primary agreements lead to partial implementation and when implementation gets blocked by the initially facilitative ambiguities, then parties are back to the table for negotiations to clarifying the issues before a renewed attempt to implement them once more. Therefore the entire process of dialogue is characterised with these back-and-forths.

Second, the negotiation strategy does not trigger the spillover effect as envisaged by the EU. The EU's neo-functional logic has not been fully embraced by the not-so-neo-functional adversaries. For the adversaries, the issue is still about territory and sovereignty. Therefore, every progress that is related to the issues of territory and sovereignty becomes a heated domestic debate and adversaries continue to re-evaluate their position in regard to the deal under implementations. When the recurrent process of evaluation of their mutual vulnerabilities reveals any potential threats towards the parties' red lines or the carrot of membership is not strong enough to facilitate an interest based policy shift, parties display reluctance to facilitate the implementation process.

**Table 1: TIMELINE**

**March 2011.** Kosovo and Serbia launched the joint dialogue aimed at normalizing relations.  
**October 2012.** The technical dialogue turned into a political one when Prime Minister Ivica Dacic and Prime Minister Hashim Thaci accepted the invitation from Baroness Ashton, High Representative of the EU at the time.

**April 2013.** The First Agreement was signed.

**3 Nov- 1 Dec. 2013.** Kosovo conducted municipal elections including the four Northern municipalities.

**October 2013.** The EU opened the negotiations for a Stabilisation and Association Agreement (SAA) with Kosovo.

**March 2014.** Parliamentary elections were held in Serbia.

**May 2014.** European Parliament Elections.

**June 2014.** Parliamentary Elections were held in Kosovo.

**Nov. 2014.** The new coalition government was formed by PDK, LDK and other smaller parties in Pristina.

**August 2015.** Four New Agreements were signed in Brussels; Association/Community of Serb Majority municipalities in Kosovo-general principles/main elements. Join Action Plan Telecoms, Conclusions on the Implementation of Energy Agreement, Freedom of Movement/Mitrovica Bridge.

**October 2015.** Kosovo's President, Atifete Jahjaga, asked the Kosovo Constitutional Court to assess the constitutional compatibility of the principles of the Brussels Agreement and 2015 Agreement of the Association/Community of Serb Majority municipalities in Kosovo-general principles/main elements.

**October 2015.** The SAA was signed on 27 October 2015 between Federica Mogherini, High Representative for Foreign Affairs and Johannes Hahn, Commissioner for European Neighbourhood Policy and Enlargement Negotiations and Isa Mustafa, Kosovo Prime Minister and Bekim Collaku, Kosovo's Minister for European Integration.

**November 2015.** The Kosovo Constitutional Court suspended implementation of the Brussels Agreement to establish Association of Serbian majority municipalities.

**December 2015.** The Constitutional Court ruled that some of the principles of the agreement with Serbia did not comply with the constitution.

**April 2016.** Kosovo-EU SAA entered into force.



**May 2016.** Kosovo threatened to boycott the next round of EU-led talks unless the EU delivers a positive recommendation on visa liberalization with the EU. Threat was withdrawn shortly after.

**Jan 2016.** Opposition parties – Vetevendosje, the Alliance for the Future of Kosovo, and Nisma- organized a large protest in Pristina to oppose the formation of the Association of Serb Majority Municipalities and a border demarcation deal with Montenegro.

**January 2016.** The EU resumed the Belgrade-Pristina dialogue for several topics including discussing the implementation of the Association/Community.

**Table 2: IMPLEMENTATION STATE OF BRUSSELS AGREEMENTS**

Agreement Signed	Aim of the Agreement	State of Implementation
<b>First Round- Technical Dialogue Begin in 2011.</b>		
Conclusions on Integrated Border Management (IBM), December 2011	To establish a joint Kosovo–Serbian border management points on all crossings between the two territories.	Both parties expressed satisfaction with the process that is still under implementation.
Kosovo’s regional representation, February 2012	Allowing Kosovo to represent itself in regional institutions, without UNMIK being present	The Agreement is implemented. Yet, there are still some contentious issues <sup>26</sup> .
Freedom of Movement, July 2011	Enabling free travel of citizens from both sides across the border.	The Agreement is implemented. Yet, there are still some contentious issues.
Conclusions on Custom Stamps, September 2011	Enabling disputants to remove barriers in front of free trade between the parties.	Both parties highlights that the implementation is satisfactory.
Civil Registry Books, December 2011	Returning the civil registry books which were under possession of Serbia at the time of the Agreement.	Both parties highlights that the implementation is satisfactory.
Cadastral, September 2011	Returning the scanned copies of original cadastral records taken by Serbia during the war time, before 1999 to Kosovo.	The Serbian side has marked a progress in scanning the cadastral documents to be returned to Kosovo.
Recognition of University Diplomas, 2011	Aimed at mutual recognition of diplomas issued in either side.	There are still some contentious issues.
Official Visits and Liaison Offices	Accordingly two liaison offices will be established; the Office of the Republic of Kosovo in Serbia and the Office of the Republic of Serbia in Kosovo. These offices will administer the official visits of the respective states.	Progress has been achieved in each side establishing the Liaison Office in other party’s capital. Yet, both side expressed concerns with the implementation process.
<b>Political Dialogue- begin in 2012</b>		

<p>First Agreement of Principles Governing the Normalization of Relations, April 2013-Association/Community of Kosovo Serb Municipalities</p> <p>-Integrating Security Forces</p> <p>-Integrating Judiciary</p>	<p>Integrating Kosovo Serb's and Kosovo Serb majority municipalities of the North (Leposiviq, Northern Mitrovica, Zvecan and Zubin Potok), into the Kosovo Government through establishment a system of local government; an Association/Community of Serb majority municipalities equipped with powers devolved from the central government.</p> <p>Integrating Serbian security structures and the court in the North into Kosovo Police and Kosovo Justice system.</p>	<p>In November 2015, the Constitutional Court of Kosovo has decided that the article of the Brussels Agreement on establishing Association of Serbian municipalities is violating the Kosovo Constitution and suspended implementation of the Agreement.</p>
<p>Telecom, September 2013</p>	<p>Kosovo is expected to receive an international telephone country code, which will be awarded by the ITU.</p>	<p>No progress recorded. This agreement is revisited in 2015.</p>
<p>Energy, September 2013</p>		<p>No progress recorded. This agreement is revisited in 2015.</p>
<p><b>Latest Round- begin in 2015</b></p>		
<p>Establishment of an Association/Community of Serbian Municipalities, August 2015</p>	<p>Elaborating the First Agreement in relation to Establishment of an Association/Community of Serbian Municipalities</p>	<p>In November 2015, the Constitutional Court of Kosovo has decided that the article of the First Agreement on establishing Association of Serbian municipalities is violating the Kosovo Constitution and suspended implementation of the Agreement</p>
<p>Energy, August 2015</p>	<p>Accelerating implementation of the energy agreements signed in 2013.</p>	<p>Blocked by Serbia (GOK 2016:2).</p>
<p>Telecoms, August 2015</p>	<p>Accelerating implementation of the telecom agreements signed in 2013. Kosovo to obtain a new country phone code by 1 March 2016.</p>	<p>Austria has duly applied for Kosovo's country code with ITU (in January 2016). Kosovo has fulfilled all its implementation obligations. However, Serbia blocked the process by not fulfilling its part of obligations. (GOK 2016:2).</p>
<p>Opening of the Mitrovica Bridge, August 2015</p>	<p>Mitrovica Bridge is to be opened for all traffic by June 2016</p>	<p>The EU has not yet been able to commence with the revitalization of the bridge, agreed to be completed no later than June 2016 (GOK 2016:2).</p>

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## **List of Interviews**

Former MP from AAK, interview with the author, October 2016

Politician from AAK, interview with the author, October 2016

Politician from Vetevendosje, interview with the author, October 2016

Politician from NISMA, interview with the author, October 2016

Activist of NGO AKTIV, interview with the author, October 2016

Member of Kosovo Centre for Security Studies, interview with the author, October 2016

European Commission official, interview with the author, May 2011

European External Action Service (EEAS) official, interview with the author, May 2011

## **(Endnotes)**

1 See the attached table on the state of implementation. Table uses information compiled from the progress reports published by Serbian and Kosovar state institutions.

2 After the postponement of the talks on custom stamps in September 2011 Belgrade continued to ban goods from Kosovo. In retaliating Kosovo the Kosovo government sends its police force to take control of two border points in the North. Local Serbs responded in blocking the road heading towards the border points and burned one of the two border points (Balkan Insight 2011).

3 Detailed information can be obtained from <http://www.kim.gov.rs/eng/pregovaracki-proces.php>

4 Authors interview with European Commission official, May 2011.

5 Authors interview with EEAS official, May 2011.

6 Authors interview with European Commission official, May 2011.

7 Authors interview with EEAS official, May 2011.

8 Authors interview with European Commission official, May 2011.

9 Authors interview with a former MP from AAK, October 2016; Authors Interview with a NGO AKTIV activist, October 2016.

10 Authors interview with a NGO AKTIV activist, October 2016.

11 Authors interview with a politician from Vetevendosje, October 2016, Pristina.

12 Authors interview with a politician from AAK, October 2016; Author's interview with politician from NISMA, October 2016, Pristina.

13 Authors interview with politician from NISMA, October 2016.

14 Authors interview with member of NGO AKTIV, October 2016.

15 Authors interview with member of NGO AKTIV, October 2016.

16 Authors interview with member of NGO AKTIV, October 2016.

17 Authors interview with politician from Vetevendosje, October 2016, Pristina.

18 Authors interview with a politician from AAK, October 2016; Authors Interview with a politician from NISMA, October 2016.

19 Authors interview with a former MP from AAK, October 2016, Pristina.

20 Authors interview with a former MP from AAK, October 2016, Pristina.

21 Authors interview with a former MP from AAK, October 2016, Pristina.

22 Authors interview with a former MP from AAK, October 2016; Authors interview with politician from NISMA, October 2016; Authors interview with member of KCSS, October 2016.

23 Authors interview with a former MP from AAK, October 2016, Pristina.

24 Authors interview with a former MP from AAK, October 2016, Pristina.

25 Authors interview with European Commission official, May 2011.





# Four Years of EU Mediation Efforts in the ‘Brussels Dialogue of the Deaf’: Analysing the Negotiations for the Association/Community of Serb Municipalities in Kosovo

Miruna Troncotă

## Introduction

*“Nobody believed that this Dialogue is the cure for everything, because the problems we have last for centuries”.*

**(NGO representative from Prishtina, informal discussion with the author, 2016)**

*“The ACSM is expected to be an institution which will be democratic, locally owned, and a creative and engaging partner in the new Kosovo”.*

**(Joanna Hanson, LSE blog, 2015)<sup>1</sup>**

April 2017 marks the four-year anniversary of the Brussels Agreement, the important diplo-

matic negotiation when the governments of Serbia and Kosovo<sup>2</sup>, motivated by the prospect of making progress towards joining the European Union (EU), struck what was referenced in the media as 'a landmark' political deal. This facilitated dialogue between Belgrade and Prishtina proved to be a real 'test case' for EU's potential as peace mediator. Four years after the 2013 'breakthrough', there is visibly less enthusiasm on behalf of the EU, while the realities on the ground look very different, marked by obstructionism rather than cooperation and consensus-seeking behaviour as initially expected. In these conditions, many now doubt the overall efficiency of EU's mediation efforts for the so-called 'normalization of relations between Kosovo and Serbia'. But are there real reasons to be worried that starting with 2015 the process reached a standstill and the positive outcomes of post-conflict reconstruction could be reversed in the case of Belgrade-Prishtina Dialogue?

There is in fact a particular part of Kosovo, which poses great challenges from that perspective – the municipalities with a Serb-majority. Kosovo Serbs live in all regions of Kosovo and constitute its second largest minority. But in the period following the Kosovo war in 1999, conflict-related division marked the Mitrovicë / Mitrovica region and resulted in Albanian and Serb communities living within separate political, social, and security structures, which contributed to a general sense of disorder and insecurity, marked from time to time by ethnically-driven acts of violence. Since the 2013 Brussels Agreement attempt at normalizing relations between Kosovo and Serbia, there have been other tentative steps toward integration in the north, but the Mitrovicë / Mitrovica Region remains fractured along ethnic lines. The river Ibar still marks the boundary between North and South as hostile sides. The challenges in this region in Kosovo that continued to produce a deterioration of relations with Serbia are stemming not only from the problems of the past and the ethnic disputes, but also from economic failure (high levels of unemployment, weak rule of law, and the deterioration of local governance).

The 15-points of the Brussels Agreement envisaged some potential solutions for those problems, and one of the most important was the establishment of an Association/Community of Serb Municipalities (ACSM hereafter), which is expected to enhance the form of political representation for the Kosovo Serbs in Kosovo<sup>3</sup>. Despite the fact that it was conceived as an essential tool to overcome numerous problems in the North, the ACSM soon become also one of the most contested points of the Agreement. For the time being, those provisions from the Brussels Agreement were not put into practice and the situation of the Kosovo Serbs in the North remains unsolved. As the leading facilitator in this process, and as a result of the post-Lisbon Treaty institutional design, the EU tried to consolidate its position as a global actor and international peace mediator. But emerging challenges, including the prolonged stagnation of the implementation in the Brussels Agreement, may prevent it from strengthening its ability to mediate conflicts, even the ones which are so close to its borders. Looking at how various actors from all three sides define the 'failure' of those negotiations becomes a task of utmost importance for both scholars and policy makers.

Thus, the paper aims to offer an overview of the main perceived obstacles for the implementation of the ACSM Agreement signed on the 25th of August 2015 and the political events that followed. The case study tackles two main interconnected subjects – the challenges of EU mediation efforts and the integration of Serb Community in Kosovo from the perspective of the local implementation of the Prishtina-Belgrade Agreement in the period between 2013 and 2016. In this context, the main research question that guides the article is: How have the mixed interpre-

tations by the EU, Serbia and Kosovo impacted the implementation of Brussels Agreement, and in particular the lack of consensus for the establishment of the ACSM?

Despite multiple ambiguities around the final text of the Agreement signed on 25<sup>th</sup> of August 2015, the negotiations over the statute of the ACSM<sup>4</sup> carry special political weight for all sides, both in the context of European integration process focused on conditioning actors' behaviour with 'sticks and carrots', but also for regional cooperation. In this context, it is necessary to explore with interpretative analytic tools this process of meaning-making which is essential for understanding the complexity of post-conflict negotiations. The article sheds a new light on the confrontation between the various policy narratives (accounts from the perspective of the stakeholders) during the last three years of negotiations on the statute of the ACSM and the failure to reach consensus (as it was perceived and discursively framed by various actors). The research took as a starting point several recent analyses on the topic and it aims at problematizing their findings. The main hypothesis to be explored within the article is: the lack of a mutual understanding of positions has directly affected the proper implementation of the ACSM, perpetuating a 'dialogue of the deaf'. For that purpose, the study will employ a qualitative interpretative analysis of online discourses and semi-structured interviews with representatives of the above-mentioned categories.

The article is organised as follows: the first section briefly explores the concept of diplomatic mediation in order to identify the main aspects of EU's strategy for mediating the particular case of the ACSM Agreement. The second section explains the analytic strategy and several methodological concerns of the study. The third section provides the policy narrative analysis in three subsections - a chronological account of the main events, mapping the main actors involved in the process and their positions towards the ACSM. Finally, the conclusions interpret the findings and discuss possibilities to move forward, pointing towards the ways in which the lack of a mutual understanding of positions has directly affected the proper implementation of the ACSM. As the stakeholders do not seem to hear each other's needs and expectations, the metaphor the 'Brussels Dialogue of the Deaf' is used along the article as a reference to the multiple misunderstandings between the mediator and the two sides of the negotiations.

## **The Challenges of EU's instruments in peace mediation**

The purpose of this theoretical section of the paper is to review recent scholarly contributions that focus on EU's instruments in peace mediation, with a particular interest on its experiences in the post-Yugoslav countries, in order to define the chosen analytic framework for the case study – a policy narrative analysis applied on the establishment of the ACSM in Kosovo. International mediation is a dynamic, structured, interactive process in which a neutral third party assists disputing parties in resolving conflict through the use of specialized communication and negotiation techniques. In one of the most innovative approaches on the topic, Lederach (1995) underlined that the ultimate goal of the peace-making process is to transform conflict by restructuring relationships in order to produce just and peaceful relations, so he theorized the concept of 'conflict transformation'. In his analytic framework he attributed a special role for mediation, defining the conditions when it is mostly needed: "when awareness of conflicting interests and needs is high and the power is balanced enough to permit negotiation" (Lederach 1995, 23).

There is extensive literature discussing the main factors that make a mediation process successful and how the evaluation criteria evolved in the last decades. As outlined in the extensive works of Bercovitch and Elgstrom (2001), Bercovitch and Kadayifci (2002), Bercovitch and Derouen (2005), Bercovitch and Gartner (2006) on the topic, the role of the mediator is essential for the final outcome of the mediation, even though there are multiple other relevant factors (such as culture, identity, context, or even discipline and normative patterns). The mediator is expected to act as a neutral third party and to facilitate rather than to direct the process. The way he/she chooses to 'intervene' in the process in order to promote consensus is essential. Mediators are supposed to use various techniques to open, or improve dialogue and stimulate empathy between disputants, aiming to help the parties reach an agreement. For that reason, the mediator is expected to provide a framework, but not to make any substantial suggestions or decisions in the case (Wall, Stark and Standifer 2001). The literature also underlines that the mediator should remain focused primarily upon the needs, rights, and interests of all the parties in conflict. For those purposes, the mediator is entitled to use a wide variety of techniques to guide the talks in a constructive direction and to help the parties find their optimal solution (Smith and Smock 2008). Other authors also argued that beyond the role of the mediator, the final outcome of a mediation depends on the type of commitment of the main participants in the process (Amaral 2015, Moore 2003).

Based on the weight placed on the role of the mediator, scholars differentiated between mediation, facilitation and dialogue, which were theorized as distinct processes of conflict resolution. They are all closely related and they are often viewed as complementary tools for dealing with international conflicts and crises. Their common feature is that they rely on a 'third party assistance' to support communication between the conflict parties. An important challenge in analysing the results of a mediation process stems from the fact that the dividing lines between these tools are not always clear, as conflict prevention and peace processes may move back and forth between them. Herrberg, Gündüz and Davis (2009) showed that, for practical reasons, there is a need to differentiate especially between mediation and dialogue processes. They showed that on one hand mediation must be understood as

*a third party-assisted or third-party-initiated and -led communication between representatives of conflict parties in order for them to directly talk to each other, discuss issues, reach an agreement and make decisions together. In contrast, dialogue is an open-ended communication between conflict parties that is facilitated or moderated by a third party in order to foster mutual recognition, understanding, empathy and trust (Herrberg, Gündüz and Davis 2009, 11).*

Also, it was pointed that "unlike mediation, in which the goal is usually reaching a resolution or settlement of a dispute, the goal of dialogue is usually simply improving interpersonal understanding and trust" (Conflict Research Consortium 1997). From this perspective, dialogue and facilitation are less directive approaches than mediation. Often criticized for being exclusively elite-driven, literature argues that the designers of international mediation processes should not focus only on elite bargaining, but also on constructive interactions at different levels of society in order to reach a sustainable settlement (Fisher 2005, 34).<sup>5</sup> Beyond theoretical conceptualizations, those distinctions prove essential in policy-making.



Even though the UN plays a pre-eminent role in the field of international mediation, other organizations or even non-state actors have important roles to play. Ever since the 2003 Security Strategy, the EU started to define itself as a global actor, and its political, developmental and security interests expanded well beyond its neighbourhood. There is an extensive literature showing that how EU institutions became increasingly active in conflict resolution and crisis management through mediation and dialogue outside their borders (Tocci 2007, 2011; Oproiu 2015). In practice, mediation is considered part of EU's comprehensive toolbox in the area of conflict prevention and crisis management<sup>6</sup>. While the EU had already been very active in the field of mediation when Javier Solana served as High Representative (1999-2009), it accentuated its mediation activities during HR Catherine Ashton's term of office, the first term after the Lisbon Treaty entered into force (2009-2014) and continues to be involved in mediation processes since HR Federica Mogherini has taken over (2014-present).

The EU took the lead in the post-conflict reconstruction of the ex-Yugoslav countries, its closest neighbours<sup>7</sup>. Settling the Balkans had a special symbolic importance for the EU because it needed to restore its bad reputation from its uncoordinated and delayed diplomatic efforts to stop the wars in Bosnia and Kosovo. Beyond symbolism, the EU became more concretely engaged in supporting the peacebuilding process in the Western Balkans, especially after it took over both military missions and civilian roles from NATO and the UN respectively, launching the EUFOR mission in BiH and EULEX in Kosovo. In particular, the EU-facilitated dialogue between Belgrade and Prishtina stands out as the most prominent example of EU mediation.

In this context, Bergmann and Niemann (2015a) examined how EU's effectiveness as a mediator in peace negotiations can be appropriately conceptualized and analysed. In their analytic framework they measure EU's level of „mediator effectiveness” along two dimensions: *goal-attainment* and *conflict settlement*, which are structured around four key sets of variables: (a) mediator leverage; (b) mediation strategy, (c) coherence and (d) the conflict's context. For that purpose they focused on the example in which the EU is the lead mediator: the Kosovo-Serbia dialogue. The two found a medium degree of EU mediation effectiveness in the Belgrade–Pristina dialogue both in terms of goal-attainment and conflict settlement (Bergmann and Niemann, 2015a, 974). The findings of their empirical analysis (focusing on the period between 2011-2013) suggests that the EU's success in mediating a number of agreements between Belgrade and Pristina so far can be explained firstly by its great leverage vis-à-vis the conflict parties due to their aspirations for EU accession, and secondly the use of positive incentives (Bergmann and Niemann 2015b). Building on their findings, EU's mediation efforts in the Belgrade-Prishtina Dialogue are thus understood in the present study as a form of 'soft intervention' for post-conflict reconciliation with good intentions, but limited results. The purpose of this study is to analyse the next phase of the Belgrade-Prishtina negotiations (from 2013 to 2016), with a specific focus on the attempts to integrate the Kosovo Serbs in the North in the Kosovo governance system and the main stakeholders' justifications for its failure.

## **The Analytic Model – Identifying dividers and connectors in the Belgrade-Prishtina Dialogue**

The main purpose of this section is to describe the main elements of the analytic strategy employed in the study, focused on what divides and what connects people in post-conflict communities. I opted for an interpretative narrative analysis on the main justifications of stakeholders for the failure/stagnation of the ACSM, which the study identified as a policy issue of critical importance in the Belgrade-Prishtina EU-mediated process. Policy narrative analysis is part of the ‘cultural turn’ in international relations, when scholars began linking state policies with deeply held and broadly shared narratives about the state’s identity, cultural framework, beliefs, and purpose (Sikkink 2001). The method itself is grounded in interpretive hermeneutics and phenomenology and involves the gathering of narratives—written, oral, visual—focusing on the meanings that people ascribe to their experiences (more in Subotic 2011).

The main assumption of this analytic framework is that EU as a mediator in the process interacted both with sources of tension (here understood as ‘dividers’) and with local capacities for peace (defined as ‘connectors’). So in this case study, the main purpose of the narrative analysis is to identify ‘dividers’ and ‘connectors’ in the discussions about how should the ACSM look like. The analysis focuses on the main narratives actors use in order to justify their positions in the negotiation. From this perspective, one of the most important roles of the mediator (the EU) is at the discursive level, because it is focused on persuasion on two different types of audience, and it involves opening space for the conflicting parties to make ‘discursive shifts’ in order for ‘connectors’ to dominate the ‘dividers’. As such, this type of discursive analysis aims to identify the elements, which gave the EU the possibility to create a climate of trust among Kosovo and Serb representatives, but in the end transformed into missed opportunities, as so far, the ACSM remained only on paper.

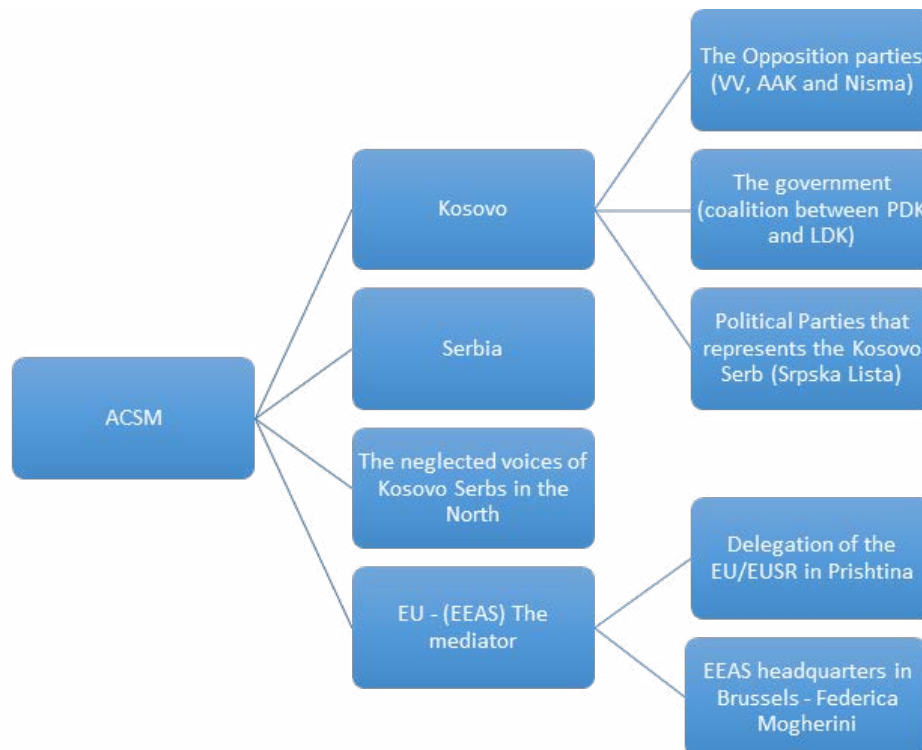
The other important assumption of this interpretive framework is that there are typical discursive features in a mediation, especially the ones which involve a wider array of actors that stick to a confrontational style of interactions. It is assumed that the conflict parties have the tendency to reproduce a divisive rhetoric along the negotiations. The main strategy used for that purpose is to select from reality only the aspects that perpetuate the conflict (‘dividers’). This makes mediator’s task very difficult, because he/she should remain neutral, but at the same time guide the process more towards cooperation than perpetuating division. And this is a very political posture for the mediator, as he/she is oriented towards a redistribution of power positions in the negotiation. In this context, narrative analysis is useful both to evaluate the impact of the third party (EU in this case), but also to understand the dynamics in the overall process of mediation as viewed by the participants. Stakeholder’s perceptions, to be found in their public policy narratives, are relevant since they drive actions. This implies focusing on elite discourses, both in formal and informal settings. This view determined the selection of interviewees not only from different ethnic groups, but also from both politics (in power and in the opposition) and civil society.

The constructivist approach to the subject points to the fact that policy narratives are critical for understanding how mediators themselves reinforce and support reaching an agreement, as well as how they obstruct the process. This type of analysis would shed a new light on EU’s

role in mediating the conflicting positions between Serbia and Kosovo regarding the final status of Kosovo's independence. For this purposes, I believe that using an interpretative discourse analysis framework suits the proposes of the current study of the diverging views that block the implementation of the Brussels Agreement and hinder the normalization of relations between Serbia and Kosovo, centered on the debates around the ACSM.

There were at least three sides of the story which needed to be explored within both desk and field research – one of the mediator (the EU) and the two sides of Serbia and Kosovo. To this, I also added the 'neglected voices' of Kosovo Serbs in the North. Within each of the three sides, there are various positions towards the Agreement (and also inside the EU, with all the tensions between recognizing and non-recognizing member states). As such, the main policy narratives analysed were selected based on the types of actors involved in the debate about the ACSM as follows:

**Table 1. The main Stakeholders in the ACSM mediation process.**



The research was organised in three parts. First, a desk research was conducted, focusing on secondary sources – online texts – expert narratives on the Brussels Agreement and in particular referring to the ACSM.<sup>8</sup> Second, a field research (which implied semi-structured interviews with stakeholders in Kosovo). This phase is based on a total of 21 research interviews (14 recorded, and 7 informal discussions without permission to record, but only to take notes, see Annex 2). The semi-structured research interviews with experts from Kosovo and the North were guided by the 3 main policy issues identified in the desk research phase. Third, the interpretive phase identified a series of recurring patterns in the total of more than 50 written texts anal-

ysed. It focused on the types of ambiguities which have been repeatedly mentioned by the most relevant stakeholders. In the end, the study has identified 3 main issues marked by contrasting views which functioned as the main ‘dividers’ in the mediation:

**Table 2. The main ‘dividers’ in the ASCM negotiations.**



## **The perceived obstacles to the establishment of the ASCM**

### **Contextualizing the negotiation process - Highlights of the last 3 years**

This section of the analysis aims at contextualizing the negotiations for the establishment of the ASCM, by mapping the main stakeholders and the main political events that marked the process. The year 2010 opened a new phase in Serbia and Kosovo relations and inaugurated mediation as the newest type of EU instrument for post-conflict reconstruction in the Post-Lisbon era. In July 2010 the advisory opinion of the International Court of Justice (ICJ) was published and it stipulated that the declaration of independence of the 17th of February 2008 did not violate general international law. This opinion was followed by a UN resolution that attributed the EU the responsibility to facilitate a process of dialogue between Pristina and Belgrade<sup>9</sup>. This dialogue process was targeted to promote cooperation, achieve progress on the EU enlargement path and improve the lives of the people in Kosovo who could not fully benefit of their political rights. This 2010 UN resolution paved the way for a dialogue on technical and practical issues

facilitated by the European Union between Belgrade and Pristhina focused on telecommunication, trade, stamp of the customs, energy, cadastral issues, car plates and university diplomas which took place between 2011 and 2012. Although there was some progress related to discussions and agreements reached, the implementation of several agreements remained open. A game changer in the relations between Serbia and Kosovo took place on the 19th of April 2013 in Brussels, when representatives from Serbia and Kosovo signed an agreement to normalize relations between their two countries. The 15-point agreement (called the 'Brussels Agreement' hereafter) affirms the primacy of Kosovo's legal and institutional framework throughout Kosovo's territory and provides the basis for substantial local self-governance in Kosovo's majority Serb north. The mediation framework was set under a win-win logic - the deal required Serbia to accept Kosovo government's control over the entire territory, while Kosovo has to grant significant autonomy to Serbs concentrated in the country's north. The expected target of the process was to reach a meaningful reconciliation process and to put an end to centuries of hostilities between the two sides.

So what exactly is this ASCM? The nature of this Association involves many linguistic, legal and political interpretations. The debate surrounding its main competencies was the source of the main 'dividers' that have dominated the policy narratives around the ACSM. Strictly according to the 2013 First Agreement of principles governing the normalisation of relations, the Association will entitle participating municipalities to exercise their powers and will have full overview in the areas of economic development, education, health, and urban and rural planning (Art. 4). Whereas "exercise powers" hints at operational tasks; "have full overview" points in the direction of coordination tasks" (EEAS, 2015:19). This language ambiguity created a lot of space for speculation and contestation. One can only guess whether this aspect was purposefully defined with this level of ambiguity by EU mediators, or it emerged as such as failure of reaching consensus in phrasing the 2013 Agreement. What is certain is that the Brussels Agreement was based on the concept of 'co-ownership' of local governance. The document defining the Association is inspired by the European Charter of Local Self-Government, which states that an Association/Community can be set in article 10 of the Charter, addressing the right of association of the local communities already quoted in the first agreement in 2013 (Council of Europe, 1985).

On 25<sup>th</sup> of August 2015, as part of the EU-facilitated dialogue, Kosovo and Serbia finalized agreements on energy, telecommunications, the establishment of an ACSM, and the Freedom of Movement/Mitrovica Bridge. This was the other turning point of the process. The document on the Association/Community consists of 22 points/articles, divided into seven sections: legal framework; objectives; organisational structure; relations with the central authorities; legal capacity; budget and support; general and final provisions (EEAS 2015). It stipulates that "only legal and legitimate municipal authorities may establish the Association" (EEAS 2015, 4). As such, it was expected that during the last months of 2015 the ACSM would be created by statute, so that already by 2016 to become a fully functional body. According to this statute, which will constitute the legal basis of the Serb majority municipalities and their relations with both the EU and the Kosovo Government, Serbia would be able to close its institutions in the North of Kosovo and transfer its financial support to Kosovo Serbs through the newly formed Association. Taking into consideration its critical role in the whole process, the content of this statute became the most important obstacle to the implementation of the ASCM. The ECMI PAX study from June 2016 tried to clarify whether the Association/Community of Serb-Majority Municipalities will be a form of municipal partnership, an association of municipalities or a combination of both.



They show that both agreements on the Association use language hinting at both coordination and operational tasks (ECMI PAX 2016).

This EU-brokered agreement in 2015 has caused much reaction and debate in both countries. The political situation in Kosovo has been somewhat precarious following this agreement between Belgrade and Pristina. In particular, the establishment of the ACSM has proven to be the most contentious part of the agreement. The statute of the Association/Community was supposed to be drafted by the end of 2015, but a major political crisis occurred. In October 2015 violent street protests destabilized the city of Prishtina, and Democratic Party of Kosovo (PDK) and government cars were set alight, while police used tear gas in an attempt to disperse the crowds (Al Jazeera 2015). Opposition parties in Kosovo criticized the deal and have repeatedly set off tear gas in parliament in protest against the decision, which they said gave the Serbian minority in Kosovo too much power. Following those massive street protests led by opposition, in November the president of Kosovo, Atifete Jahjaga, ordered the Constitutional Court to review the legality of the August Agreement on the establishment of the ACSM. This move created a new crisis and deepened tensions between the two sides, further politicizing the process (Capussela 2015). On 19 November 2015 the Kosovo Constitutional Court suspended the deal on the Serb Municipalities. The Court's statement said it was "suspending the implementation of any further legal actions of the Association/Community of Serb-majority municipalities in Kosovo" (AFP 2015). This temporary decision was followed by another one on 23 December 2015, when the Court upheld the legality of the agreement, ruling that the creation of the ACSM is in line with the constitution (Balkan Insight 2015). However, the Court said that some aspects of the agreement pertaining to the ACSM were unconstitutional (22 points) and ordered the relevant authorities to correct this through legal amendments.

The Court's final decision also put forward recommendations to correct it. It said the ACSM should be based on the original, 2013 Agreement and the government can bring the 25 August accord into line with the constitution via amendments to the future implementing act (the statute of the ACSM) and government decree promulgating the 2013 pact. This opened what some analysts call a „constitutional crisis" (Weber 2016). Protesters returned to the streets of Prishtina on 9 January 2016 in the largest anti-government demonstrations in Kosovo after the war. According to media reports, more than 10,000 people took part in demonstrations organised by the opposition parties, which continued to hold grievances towards the agreement on the ACSM (Reuters 2016). The leaders of the opposition parties claimed that they would continue to encourage public unrest and disruption of the work of the assembly until the current government resigns and the agreement on the ACSM is renounced. It is also important to mention that not only the legal framework of this new body creates divisions, but also its name, which also illustrates the 'war of meanings' in this mediation process. While Belgrade insists on the meaning of the term "Community" (Зajедница српских општина/*Zajednica srpskih opština*), suggesting that it implies a legal entity with executive powers, Prishtina insists on the term "Association" (*Asociacioni i komunave serbe*), implying that the entity should have the statute that other municipalities in Kosovo have in the local association, which is an NGO.

Thus, the first half of the year 2016 was also marked by the deepening polarisation between the governing coalition, (PDK, LDK, Serb Citizen's Initiative 'Srpska' and non-Serb minority group '6+' a) and the opposition parties - Vetëvendosje (VV), Alliance for the Future of Kosovo (AAK) and Initiative for Kosovo (NISMA). In June 2016 Kosovo President Hashim Thaçi announced

formation of a working group to move forward on establishment of the Association (European Western Balkans 2016). He did not specify who the members of the working group will be, but noted that there will be no representatives of Serbia (Balkans Insight 2016). Those were the main events that marked the period in focus regarding the establishment of the ACSM. Next, the analysis combines the patterns identified in the desk research on existing analyses of the ACSM Agreement with the ones found in the research interviews.

## **Kosovo's ambiguous narratives on the ACSM – an internal struggle?**

The narrative analysis focused on the main dividing lines between the Government and the opposition in Kosovo on this topic, which triggered protests, unrest and a political crisis which lasts from the end of 2015 – beginning of 2016. The aim of this subsection is to better understand the reasons why the opposition parties have resisted the creation of the ACSM, and the way they express their fears that this political entity could lead to the creation of “another layer of government” or even “pose a risk of secession”. The main narratives of stakeholders in Kosovo are marked by polarisation. On one side, there are the supporters of the ACSM Agreement (the ones who were also part in the negotiating team – representatives of the governing coalition PDK and LDK, often represented by the voices of Edita Tahiri, Hashim Thaci, Isa Mustafa, the Ministry of Local Governance). The official position of the Kosovo Government was present in the local and international media, but also in their annual reports on the Implementation of the Brussels Agreement. An important remark at this point is that it is very difficult to identify who are the real ‘supporters’ of the ACSM in Kosovo, because even some representatives of the negotiating team from the Government informally recognize that there is “no more need of additional competencies for the Serb Municipalities, because they are already granted with substantial rights and political representation in the Kosovo Constitution” and they consider their requests exaggerated<sup>10</sup>.

The most recent Government report evaluating the progress in the Dialogue mentions that: “Serbia blocked the process by not fulfilling its part of obligations” and that “both legal and illegal municipalities are yet operational in northern Kosovo. (...) Serbia has also delayed the removal of the barricade (‘peace park’) from the Mitrovica Bridge because the EU has not yet been able to commence with the revitalization of the bridge, agreed to be completed no later than June 2016” (Kosovo Report on the State of Play in the Brussels Agreement 2016, 3). Representatives of the Kosovo Government that were interviewed denounced the statements of several Serbian representatives that the ACSM will have extended executive powers as “illusionary” and in contradiction with the Kosovo legal framework and mentioned that in their view the Association would follow the model of the existing Association of Kosovo Municipalities (AKM), which means that they will not have any executive powers<sup>11</sup>. They voiced Kosovo’s conditions on Serbia, arguing that: “We have been clear saying that the Government of Kosovo would not provide the green light to establishment of the ACSM until the full undoing of the parallel structures of Serbian state in Kosovo”.<sup>12</sup>

The ‘lack of political will’ is a commonly invoked diagnosis for the stagnation of the process for Kosovo leaders. The Government report notes: “Kosovo has been effective in fulfilling its obliga-



tions and fully cooperated with the EU to push forward the implementation process. However, the same does not apply to Serbia which virtually blocked the process of implementation by not making any significant moves in fulfilling its assumed obligations” (Kosovo Report on the State of Play in the Brussels Agreement 2016, 3). Commenting on the decision of the Constitutional Court, Kosovo officials also denounced the opposition protests as ‘biased’ and exaggerated in their alarmist tones. They underlined that the most important target of that consultation was the principle stated in the agreement which refer to ‘the harmonization with Kosovo’s legal order’. In their view “Pristina’s Constitutional Court ruled on the legitimacy of the text”<sup>13</sup>. Even though the agreement concedes an Assembly, a President, a Vice-President, a Council and a Board to the new Association, Pristina declared that in its interpretation of the document no executive power of the new entity was recognised.

The views of the ACSM’s opponents (the above mentioned opposition parties and several NGOs, who organized the protests against the ACSM in autumn of 2015), are very different. In the official narrative, they see the ACSM as an inter-municipal community of Kosovo Serb municipalities coming together to solve common issues, but not to form “a Serb enclave controlled by Belgrade”<sup>14</sup>. They expect this entity to be a kind of a non-governmental organisation with no executive powers, but they accuse Kosovo Government for misleading the population about the August 2015 Agreement, because that one creates a “new layer of governance, not an NGO”<sup>15</sup>. The main demands formulated by the opposition for the protests from the autumn of 2015 were for the PDK-LDK government to resign, the EU talks to be halted and for a national unity body to pursue the process in future.

From all the opposition parties, VV had the leading voice, and since late August 2015 the party has fiercely opposed the agreement. Its critical tone dates back from their electoral campaign in the 2014 elections, when they announced that intend to end the Dialogue until Serbia “apologizes for their crimes” (Vetevendosje.org 2014). This far-left opposition movement has expressed a series of ‘radical ideas’ - a union with Albania – and they oppose any action to normalize relations with Serbia. Party leader Albin Kurti and other representatives opted for violent methods of protest (releasing tear gas in the Kosovo Parliament) in order to express their disapproval to the Association. In their narratives, the ACSM is fully ‘orchestrated by Belgrade’ and does not focus on the real impact on Kosovo Serbs. The other leaders of the opposition, echoed also the VV arguments. Ramush Haradinaj (leader of AAK) and Fatmir Limaj (head of NISMA), both of them ex-KLA commanders, argued against the Association calling it ‘national treason’, the ‘Bosnification of Kosovo’, interference from Serbia, etc. (Kelmendi 2015).

It was also stressed that those protests targeted an internal political struggle in Kosovo. A respondent from the AAK opposition party argued that “the protests were meant to put a big pressure on the acting politicians from PDK and LDK because the decision of the Constitutional Court undermines their credibility, as they have signed a document which breaches Kosovo law”<sup>16</sup>. He underlined that the protests from the autumn of 2015 were directly focused on the overthrow of the Mustafa-Thaci government. Those statements show a clear internal struggle between governing and opposition parties, using the Dialogue as another ‘weapon’ for further politicization.

The most frequently used ‘divider’ in the Kosovo opposition’s narratives was also the comparison with the creation of another Republika Srpska/or the ‘Daytonization’ of Kosovo when

mentioning the legal dangers posed by the 'third layer of government'. One of the frequently mentioned dangers is that it will create 'a mono-ethnic entity' which actually violates the principles of multi-ethnicity as guaranteed by the Kosovo Constitution and the Ahtisaari Plan. In the view of the representatives of Kosovo opposition parties, the Brussels Agreement created in fact a self-governing sub-state political unit within Kosovo that sets the danger for a possible 'federalisation'. In the research interviews, VV respondents confirmed that this is their main fear against the ACSM "that through the agreement of August 25th the 'Bosnification of Kosovo' is going to happen"<sup>17</sup>. They draw parallels with the 'Association of Serbian municipalities of Bosnia' founded on April 1991, which on September 1991 declared autonomy, on January 1992 declared independence and on December 1995 it was de jure recognized as 'Republika Srpska' in the Dayton Agreement. From their perspective, the ACSM could be institutionalizing separation in the North, and this would undermine Kosovo's sovereignty, as it will create a body with 'executive powers' in fields including education, health, the economy, and security. The majority of the policy analyses and the research interviews confirm this interpretation of the ACSM as 'a third level government, between a municipality and the central Government' (see also KDI 2015). Even the name dispute of this entity is considered as an illustration of those contrasting expectations. In the view of an NGO leader from Prishtina, "the term 'Community' preferred by Serbs implies a territorial link and major legal integration, whereas this agreement only grants greater local autonomy"<sup>18</sup>. This view was expressed also by legal experts, who also drew attention that the concept of establishment of the ACSM on ethnic grounds is also challenging the legal and constitutional character of a multi-ethnic state in Kosovo by offering too many privileges to only one minority (Islami 2015).

The analysis showed that besides the opposition parties (who have their share in opposing any decision of the Government and are expected to speculate any problematic decision taken by the present leadership in order to build their own political leverage), there were other civil society representatives from Prishtina that confirmed this view that Agreement on the ACSM does not create an organization, but 'a third level of government'. For example, the Kosovo Democratic Institute (KDI) was one of the most vocal NGOs to argue that the Association will deepen the ethnic division in Kosovo and prevent the integration of Serbs into the Kosovo institutions (KDI 2015).

The other 'divider' mentioned by the Kosovo representatives' narratives was the decision of the Constitutional Court from December 2015. Pristina-based analysts argued that it was clearly a political move, not one with 'innocent' legal concerns. It was argued that in January 2016 the ruling that parts of the Brussels-brokered agreements with Serbia were unconstitutional "has given the opposition a strong weapon that they can continue to [use to] oppose the government and the agreements that were reached" (Mushkolaj 2016).

The last policy issue analysed in the actors' narratives is the EU's involvement in the process. In the case of Kosovo representatives, either supporters or critiques of the ACSM have contrasting narratives, which makes EU's role in the mediation process to be perceived in ambivalent ways – both as a strong 'connector', that could bring the sides together for a common goal (EU accession), but also a 'divider' (incoherent position between its 28 member states - recognizers and un-recognizers). Some critics go even further to claim that the whole mediation process was a 'mess done by EU' (EU Observer 2015). The opposition also expresses very critical view regarding EU's involvement in the process and its support for the ruling corrupt elites in Koso-

vo. They also denounce the whole format of the negotiations as being solely an “elite bargain” for interests of power and control, accusing EU for being drawn away from the real needs of the Kosovo citizens: “The citizens are completely left out. The process was lacking transparency. It was undemocratic. This fits EU view for Kosovo – more stability, less democracy. How can you trust that they would find a solution in our interests when they discuss between closed doors?”<sup>19</sup>. This shows that the opposition’s criticism against the government is also associated with criticism against the EU, who guaranteed in its role as mediator the whole process and worked closely with the Kosovo Government:

*Thaci and Mustafa unilaterally decided the 25 August accord doesn’t need parliamentary ratification because it stems from the (already-ratified) 2013 pact, ignoring the entirely new ASM elements which the August deal brings in the influence of Serbia into Kosovo’s internal affairs. How could EU accept such a thing? It contradicts EU’s own democratic values*<sup>20</sup>.

The main characteristic of Kosovo’s narratives is again – ambivalence - the opposition accused the EU for lack of transparency in the process and ‘a secret diktat’ negotiated with both the Kosovo Government and Serbia ‘behind closed doors’, admitting at the same time that “the strongest driver is the desire to open up our own path for EU accession”<sup>21</sup>.

## **Serbia’s multiple voices, between its own interests and the Serbs in the North**

The analysis identified a series of contradictory narratives between the position of Serb government and the Serb representatives from the North, as ‘two voices’ that are not all the time on the same note, even though they are perceived by the Kosovo Albanians as one integral voice. Serbia’s position regarding the ACSM is expressed by the officials in Belgrade (as the main representatives in the negotiations). But there is also the point of view, which is not part of the mediation, of the Kosovo Serbs from the North beyond the Kosovo Serb politicians, represented by local NGOs and ordinary citizens living in North municipalities.

Regarding the nature of ACSM agreement from 25<sup>th</sup> of August 2015, Serbia and the Serb representatives in the Kosovo government see it as an association of municipalities taking on the contours of a ‘governing entity’. The formal position is comprised in its annual reports from the Government of Serbia Office for Kosovo and Metohija (KiM) website and the Progress Report on the Dialogue between Belgrade and Pristina which has already 3 issues (Kim.gov.rs). In the Kosovo Government, Ljubomir Marić is the coordinator of the team in charge of setting up the ACSM and he made several public statements regarding the position of Kosovo Serbs in the North. Belgrade’s delegation for the negotiation of the ACSM was headed by the director of the Serbian Government Office for Kosovo and Metohija, Marko Djuric, who is the most present figure in public discourse. Most recently he was very present in a debate focused specifically on the Dialogue debates at the Belgrade Security Forum in October 2016 (Europeanwesternbalkans.com, 2016). In most of the cases, he replies to the statements of Edita Tahiri, his counterpart on

the side of the Kosovo Government. In a recent interview for Radio Sputnik in June 2016, Marko Djuric perpetuates 'the blame-game' narrative present also in the Kosovo Government reports, accusing the other side for not respecting the agreements:

*The aggressive and often openly anti-Serbian rhetoric of the Albanian elites in Pristina is creating a negative political atmosphere detrimental to our attempt to normalize relations between us. Serbia has been working hard to make this happen, but I'm afraid that the failure to implement the agreement and Pristina's often chauvinistic rhetoric are putting the very future of this dialogue on the line (Sputnik 2016).*

He also assumes to defend the rights of the people in the North by warning that "by paying lip service to their desire to normalize ties with Belgrade, Prishtina puts in question the fundamental rights of the Kosovo Serbs and even wants to deprive them of their rights to education and health care" (Sputnik 2016). In his view, the root of all problems with the ASCM is 'the mentality' emphasizing that "some Albanian leaders in Kosovo see talks as a continuation of war by different means. This is a war mentality that must be forgotten as soon as possible," (Sputnik 2016). This view comes in line with the ones expressed also by Serbian Foreign Minister Ivica Dačić, who reassures in all public occasions that Belgrade remains committed to having a constructive dialogue with Prishtina and to implementing the agreements reached so far, but underlines that "Prishtina keeps failing to take the necessary relevant steps, especially concerning the Community of Serbian Municipalities" (Balkan Insight 2016b).

When describing their perceptions over the nature of the ASCM, Kosovo Serb representatives often invoke the freedom of association, which is applicable for individuals, or municipalities as guaranteed under the Constitution and they indirectly confirm the perspective of a body with extended executive powers: "We were attracted to the South Tyrol model the most and one can say it is closest to what the community of Serb municipalities will look like"<sup>22</sup>. On the same note, another interesting perspective as expressed by one representative from North of Mitrovica is the political nature of the process which should not be reduced to technical or legal elements: "The very political nature of the issues discussed in the North makes it almost impossible for the ASCM to be an NGO. It needs to be a political body"<sup>23</sup>.

The decision to send the ASCM Agreement to the Constitutional Court of Kosovo has prompted furious anger from Serbia and this confirmed in the narrative analysis to be a strong 'divider'. The final decision from 23<sup>rd</sup> of December 2015 was interpreted as "a mistake by the parties in power, and was used as the main device to obstruct the implementation of the agreement by the opposition parties"<sup>24</sup>. NGO representatives from North Mitrovica accuse Kosovo political parties of focusing mainly on their internal struggle and not caring for the citizens in the North adding that "the technical talks were again transformed into talks on Kosovo's status and sovereignty by some representatives in Kosovo who oppose the agreement"<sup>25</sup>. Representatives from North of Kosovo warned at that time that the Brussels Agreement was transformed into a "dining table by Prishtina" and "if the court comes to a conclusion that this is opposite to the constitution of Kosovo, then the agreement will have no meaning" (SouthFront 2015).

Ivica Dačić confirmed the same view, adding that the „decision by the Constitutional Court of Kosovo to suspend the accord on the establishment of the Community of Serb-majority municipi-

palities had flouted the agreements reached in facilitated dialogue” (B92 2015). A Kosovo Serb NGO leader from North Mitrovica, also stated this opinion – “The ACSM Agreement was transformed into an internal political fight between government and the opposition in Prishtina. This is not about us anymore, it is again just about them”<sup>26</sup>. Harsh comments on the same topic and disapproval was expressed also by Milovan Drecun, the chairman of the Council for Kosovo in the Serbian Parliament, who told Radio Free Europe that the Association, as envisaged in Prishtina, does not contribute to Kosovo Serb community.

*We do not care if the Association shall be in line with the Constitution of Kosovo. The Association should be in accordance with the Brussels Agreement. Belgrade has been told that the Association shall have the powers, which were agreed upon with the Brussels Agreement, but Prishtina will make efforts to reduce those responsibilities, so that the Association can transform into something that, in no way, could contribute to improve the position of the Serbian people (in Kosovo) and its better perspective (RTKLive 2016).*

These examples show that in several aspects all Serb representatives, both from Serbia and the ones representing the North to Prishtina follow the same lines of argument.

As observed in the main policy narratives, there is a lot resistance and reluctance on the part of Kosovo Serbs, towards the Kosovo Government and its involvement in the process. Tatjana Lazarevic, editor of the “KoSsev” newsportal, and a journalist from the North synthesized the feelings of the inhabitants from the North towards the ACSM. She presented a series of strong arguments which coincided with several other narratives encountered in the field research interviews. Regarding the constitutional crisis from winter 2015, she stated that „while they strongly advocate for the use of Constitutional Court decisions on the still illusionary issue of the Association of Serbian Majority Municipalities, the provisions of their own constitution on the equality and the power sharing role of another people besides Albanians are just dead words on paper” (Lazarevic 2016). She underlines the persistent feelings that the North is being left out of the mediation process and their voice is not heard: “Kosovo Serbs were not active participants in the Brussels dialogue process for the better part of or most of the agreement, even if all related agreements directly affect their daily lives” (Lazarevic 2016). NGO Aktiv is the most vocal representative of civil society in the North and they published a report in the autumn of 2015 comprising the views of citizens, defining the ACSM by using the metaphor „the sum of all fears” (NGO Aktiv 2015a). NGO Aktiv’s reports (2015 a, 2015 b) clearly highlighted that the process to establish the ACSM has so far lacked any human dimension: to the citizens, it is not clear who ‘owns’ the agreement and who are its beneficiaries.

They stress that one of the main causes for the dissatisfaction in the North is the perception of fear and uncertainty. One of the respondents from North Mitrovica voiced the same concern, underlining that the political instability and the violence of the opposition protests directly affect their lack of trust in Prishtina<sup>27</sup>. Another respondent from the North argued that these moods exist because of the failure to form the ACSM foreseen in the Brussels agreement adding, “Our patience reaches tipping point. All we want is an ACSM that could be an instrument enabling our integration and reducing inter-ethnic tensions”<sup>28</sup>. Similarly, a NGO representative states that the feeling of insecurity is based also on Prishtina’s hostile attitude: “The collective rights of Kosovo Serbs need to be protected from abuses from Prishtina. We need a guarantee. This ACSM could be such a guarantee that our rights will be protected”<sup>29</sup>.



NGO Aktiv report tries to bridge the so-called ‘neglected voices in the North’ (Hanson 2015) and Prishtina. In their narratives there is an attempt of trust building between the two contradicting sides, to break the ‘zero sum game’ setting of the talks and to focus on ‘connectors’ rather than ‘dividers’. They tried to show that the ASCM should help, not hinder the two communities, criticizing the format of the negotiations, which encourages politicization: “They focus too much to improve elite interaction and this disconnects the citizens from the debate, which in fact decides on a matter that directly affects their lives”<sup>30</sup>.

Another important nuance in defining the ASCM in the view of the Kosovo Serbs from the North is that there are economically related fears related to the future employment and human security of the people who work in the parallel structure from the North.

*The ASCM should also be seen as an economic issue, meant to solve some practical/rational issues for the Serbs in the North. But Prishtina chooses to tackle it only as an ethnic issue in order to postpone its creation. This worsens the situation of ordinary Serbs in the North and becomes a vicious cycle – they will find Prishtina responsible for their deteriorating status.*<sup>31</sup>

This view highlights a disturbing fact that needs to be addressed by the ASCM and by Prishtina government – the fact that people in the public sector will lose employment due to the different budget basis on which northern municipal government is being funded from Pristina. The respondent stressed this shared concern of the people in the North:

*Our greatest fear is that the ASCM will not provide alternative employment. This is not politics per se, but this is rational thinking. It is difficult to imagine that this new institution could provide a large number of jobs, especially when Kosovo in general faces that huge level of unemployment.*<sup>32</sup>

The last ‘divider’ was the views towards EU’s involvement in the process as the main facilitator. Starting with 2013, Serbia adopted a negative tone on this topic, focused on criticizing the EU: “The Belgrade government displayed a tendency to falsely present the EU mediation efforts as some kind of ‘diktat’ that forced Belgrade to choose between submission and international isolation” (Lehne 2013). Commenting on EU’s role, Marko Djuric criticizes its biased involvement in the negotiation arguing:

*It should do more than just providing premises for the talks and being a silent witness to them (the Kosovo Albanians, n.a.). The EU has assumed responsibility for the implementation of the [Brussels] accords and their unbiased interpretation. Even though the majority of EU countries have recognized the so-called independence of Kosovo, we expect an unprejudiced interpretation of these accords and an absence of any attempts to use this dialogue as an instrument of achieving their own geopolitical ends by means of using pressure against Serbia (Sputnik 2016).*

This criticism was also mentioned by different NGO representatives in the North, showing the reduced level of credibility EU has in exercising its role of moderator, which becomes a destabilizing factor itself to the process. Moreover, EU's role as a neutral third party is also contested:

*EU acts more than a mediator. EU sets the agenda because it is conditioning the process with sticks or carrots, with visa liberalisation and with membership, an offer no one can refuse. That is the problem. But the EU offers no guarantee in the process, especially now when it has to deal with multiple crisis – the Eurozone, Brexit, the refugees, terrorist attacks etc.* <sup>33</sup>

In the end, it is important to underline that respondents from North Mitrovica have ambivalent views on Serbia's role. Some discussants made it clear that Belgrade's input should be focused mostly on economic growth and investments, which should make the community economically sustainable. "This is something both us and Prishtina will benefit from"<sup>34</sup>. Some Serb experts assure that in their view "In the ASCM Agreement Prishtina is seen as having in the ACSM a partner to work with, not a competitor and thus they dismantle all possible comparisons with Republika Srpska as forms of politicization and misinterpretation by Prishtina".<sup>35</sup> These views could be interpreted as an illustration of a move towards a win-win logic, more focused on economic interests as 'connectors', able to dismantle the great number of 'dividers' on the ACSM, at least in several cases of NGO leaders from the North.

## **EU's mediation efforts – balancing between the two sides or taking sides?**

The argument of this last sub section of the narrative analysis is that the role of EU in this process of negotiations is ambivalent and this adds to the confusion and tensions in the process. The article identified two main contradictory narratives regarding EU's role in the process – on one hand, there is the EU's consistent leverage on the two sides in the accession process is considered a strong 'connector'. On the other hand, EU's inconsistent position that seems to favour one side or the other, and to shift after different political events, is perceived as one of the important dividers to the process. The tendency of blame shifting on both sides (Kosovo and Serbia) targets the EU for all the problems that occur in the process.

The EEAS is the main EU institution tasked to mediate the ASCM. As such, its views on the process are mostly disclosed in diplomatic language in press conferences after negotiations conclude, in interviews for international or local media and in experts' debates and forums. The general message expresses a constructive role for the EU in the process, and most often focuses on the positive aspects of the agreements reached, and not on the negative elements. The ACSM is most often defined by the EU in neutral terms, such as the ones in the official description on the EEAS website: "The aim of the EU facilitated dialogue for the normalisation of relations between Belgrade and Pristina is to promote cooperation between the two sides, help them achieve progress on the path to EU integration and improve the lives of the people in the North." and "The agreement between Serbia and Kosovo is perceived as an important step in the overall



process of ‘normalization’ that the EU facilitates starting with 2011. Its main meaning is to grant more autonomy to Serb-majority municipalities in Kosovo’s north” (EEAS 2015).

Additionally, EU’s official view on the ASCM’s dynamic is presented in the last 3 progress reports issued by the European Commission after the Brussels Agreement was signed (2014, 2015, 2016), where both Serbia and Kosovo have their own special sub section addressing the latest developments in the Dialogue. Soon after the August 2015 Agreement was signed by all sides, the EU Commission representatives were firm in placing the responsibility: “We expect the 25 August agreement to be implemented. Both parties are responsible for their part of the implementation work” (EEAS 2015).

Following the political crisis provoked by the protests and the constitutional crisis over the temporary suspension of the ACSM, HR Federica Mogherini softened her tone and approached the situation more empathically. On May 6, 2016 Federica Mogherini held a speech in the Kosovo Assembly in which she highlighted several main points that represent the official EU narrative regarding the ASCM: “The Association/Community can fortify and enrich Kosovo. It will allow the Serb community of Kosovo to fully integrate into society and it can be a step towards a stronger Kosovo, not a weaker one, in a more stable region” (EEAS, 2016). Here, the analysis identified an important aspect that is in line with the task of a mediator as described in the theoretical section, which is the focus on the needs of the two parties and the disclosure of empathy with their specific difficulties (“I am not saying this is easy” EEAS, 2016).

Additionally, Mogherini addressed the concerns of the Kosovo opposition, underlining that there is no real danger that the ASCM will be a third layer of government and it will not endanger Kosovo’s sovereignty. Her balanced tone and attention given to the worries and dissatisfaction of both sides is also expressed by Angelina Eichhorst, the Director for the Western Balkans and Turkey from the EEAS, another EU representative who presented EU official narratives on the topic: “Yes, the situation in the North is very complex, very difficult. There are legitimate fears, worries, concerns amongst the people. These have to be addressed, explained, dealt with. By doing nothing, by not addressing the issue, one cannot move forward” (Prishtina Insight 2016). Similarly, the latest EC Progress report from November 2016 evaluates the deteriorating situation on the ground and admits the lack of consensus on the ACSM, but keeps on overall optimistic tone regarding its own engagement to the process: „Overall progress in the implementation of the 25 August 2015 agreement has been slow. (...) EU frequent bilateral contacts and discussions with both sides helped maintain the political engagement at highest level, and re-engage both sides to resume work on the implementation of past agreements” (European Commission 2016, 4).

In the personal discussions conducted during the field research, EU representatives in Prishtina and North Mitrovica also underlined that in their view communication is of essence in this process, which must be orientated towards trust-building. The accusations of lack of transparency were also dismantled as form of politicization, because it was stressed that it is the responsibility of the parties to explain the Agreement to the local public without distorting its content. They referred also to the fact both sides have the tendency to bring new issues on the table, which were nor part of the formal Agreement signed in Brussels back in 2015, and which are used to condition the other side and postpone its implementation.

Commenting on the moment from December 2015 when the provisional decision of the Kosovo Constitutional Court was to dismiss the Agreement, the European Parliament rapporteur responsible for Kosovo, Ulrike Lunacek said that “if the Constitutional court decides that the agreement is opposite to Kosovo’s constitution – the agreement should be changed” (Balkan Insight 2016c). On the same issue, EEAS representative Angelina Eichhorst also clarified that the ‘First Agreement on Principles’ from 2013 “was concluded in full respect of Kosovo law; municipalities in Kosovo should function in accordance with the Kosovo laws” adding that the December 23, 2015 Constitutional Court decision, which said that some elements of the EU-brokered deal on the formation of the ASCM unconstitutional, maintained that the body must be formed. She called on Kosovo’s politicians to explain this to the people and to refrain from misinformation. (Prishtina Insight 2016).

In order to conclude for this part, EU-led diplomatic mediation did not fit the usual definition of such a process – it was not fully voluntary, and it was only partially confidential (because the main stages of the process needed to be presented to the public). Assuming the role of the mediator, but without prior experience (especially not since the EEAS was established) EU did not act as a neutral third party, because it was tasked not only to facilitate, but also to direct the process through specific diplomatic measures. This was felt by both sides, and this asymmetry in mediation has antagonized Belgrade’s and Prishtina’s positions. The incentives offered by the EU in the enlargement process thus proved to be perceived both as one of the strongest connectors in the mediation, but also as a visible divider.

## Conclusions

In the 18-year history following the war in Kosovo, the Brussels Agreement undoubtedly constitutes the most serious attempt on the part of international policy makers to fight against the isolation between Belgrade and Prishtina, to abolish Serbian institutions in Kosovo and to integrate North Kosovo into the Kosovo state. After the ICJ opinion in 2010, EU was tasked by the UN to manage the difficult case of mediating between the two former war parties. EU assumed to normalize relations between Serbia and Kosovo, and the signature of the Brussels Agreement was the most visible achievement in this process. Three years after, observers could see that the most sensitive topic in the 15-points of the Agreement remained only on paper, as North Municipalities with a Kosovo Serb majority are still not integrated in the Kosovo governance system.

The article analysed the policy debates around the delayed creation of an ACSM in Northern Kosovo because this was identified as one of the most impending challenges for the smooth continuation of the Kosovo-Serbia Dialogue, which formally started back in 2011. Tackling the politics behind legal ambiguities with tools of interpretive narrative analysis, the study argues that there is widespread disagreement over the extent of the ACSM's competences and this is one of the main impeding elements regarding a potential implementation and the drafting of the final statute that would constitute a legal basis for the entity. The article has investigated mainly the second phase of the EU-facilitated dialogue between Belgrade and Prishtina (2013-2016) as a unique case of EU mediation, by looking at the main dividing and connecting elements in the stakeholders' narratives. It showed that in the last 3 years, Serbia and Kosovo played a continuous 'blame game' regarding the lack of implementation of the Brussels Agreement and both countries had blamed EU's strategy of „constructive ambiguity” for the lack of results.

While investigating the two governments' political will to stay committed to the Dialogue, the article argued that both Serbia and Kosovo aspire to move forward on their path toward EU accession and seek to win EU appeal in the dialogue process to improve their prospects of future membership. This element was identified as the strongest 'connector' in the Dialogue. This places the EU also in a privileged, but delicate position as a mediator in the process. Another aspect was identified as an important 'connector' (and that is related to the long term framework of the Dialogue and EU-led mediation) – the fact that all sides agree that the ACSM's existence is legitimate and that it should exist, as it is necessary for it to operate under Kosovo law and it is expected to work with the central authorities of Kosovo. This part is the 'common denominator' on which the EU could build in order to reach consensus for a final decision over the ACSM in the next year/years. But for the moment this necessity for an acceptable version of political representation for the Kosovo Serbs under Prishtina's rule did not prove sufficient to build consensus among the parties. On the contrary, the ASCM was confirmed in the policy narratives as a source of politicization and segregation. It was argued in the end that the biggest challenge for the implementation of the Brussels Agreement is to accommodate this mix of interpretations, which have hindered the expected results of the Agreement.

The analysis showed that the ACSM was framed under the very divisive rhetoric that permanently labelled 'the winners' and 'the losers' in the process, which set the main 'dividers' at the centre of the public debate. The negotiation process and the public debate it triggered was marked by stubbornness and denial, confirming the metaphor of 'dialogue of the deaf' that

characterizes the last 3 years of the mediation process. This way, the hypothesis was validated by showing the fact that those contradictory perceptions over the role of the mediator exist, and this undermines the efficiency and the credibility of EU's actions in the process. The analysis stresses the role of conflicting interpretations in distorting policy change, stemming not only from the contradictory narratives of the two negotiating sides (the representatives of Kosovo and Serbia), but also from the shifting positions of the mediator itself – various EU representatives and their specific agendas. Thus, the article suggests that EU's ambivalent role became in itself a source of ambiguity.

In the end, the article argued that the 25 August agreement was an important game changer in the Dialogue mainly because it was followed by contradictory interpretations which mirrored in fact the pre-agreement positions of Prishtina and Belgrade. In these conditions, EU's task of mediation proved to go beyond its institutional capacity. The article also draws attention that this situation of uncertainty may produce counter productive effects or even deteriorating the already fragile relation between Belgrade and Prishtina. The present standstill is contrary to the expected results of this complex mediation process and might become a negative indicator for EU's mediation efficiency in the future. While both sides have much to gain from resolving this problem, and the ASCM was proposed as a practical solution for that particular aim, it seems that in the end the legacy of the ethnic conflict, based on promoting mistrust and hostility weighed heavily and presented huge obstacles to a genuine dialogue. What resulted in fact was a 'dialogue of the deaf', using the metaphor proposed by the article.

The hard task for the mediator to find a middle ground between these antagonistic positions was not yet fulfilled in this case. The future statute of the ACSM needs to be reached over a compromise acceptable to all of the key stakeholders. For that, the process needs to move deeper than elite socialisation in Brussels meetings, and involve more citizens in the process. EU should focus in the next years on assessing both the needs and expectations of Kosovo Albanians and of Kosovo Serbs from the ACSM, in order to shift the framework of 'competing claims' in one of integration and acceptance.

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Kosovo Albanian Political analyst from National Democratic institute (NDI) Kosovo. Interview with the author. 24 October 2016, Prishtina.

Kosovo Albanian NGO representative, Institute of Development Policy (INDEP). Interview with the author 24 October 2016, Prishtina.

Kosovo Albanian NGO representative Youth Initiative for Human Rights. Interview with the author 24 October 2016, Prishtina.

Kosovo Serb representative from NGO Aktiv. Interview with the author. 25 October 2016, North Mitrovica.

Kosovo Serb representative from bussiness sector in Zubin Potok. Interview with the author 25 October 2016, North Mitrovica.

Kosovo Serb representative from Advocacy Center for Democratic Culture (ACDC). Interview with the author, unrecorded discussion. 25 October 2016, North Mitrovica.

Kosovo Serb representative from EU Info and Cultural Center in Mitrovica. Interview with the author. 26 October 2016, North Mitrovica.

EULEX North official, Interview with the author unrecorded discussion, 26 October 2016, North Mitrovica.

Kosovo Government official, Ministry of Local Governance, LDK. Interview with the author 26 October 2016, Prishtina.

AAK party official. Interview with the author. 26 October 2016, Prishtina.

Kosovo Government official, Ministry for Dialogue. LDK. Interview with the author. 27 October 2016. Prishtina

Vetevendosje party member . Interview with the author 27 October 2016. Prishtina.

Kosovo Albanian representative of a local private company of legal consulting. Interview with the author 27 October 2016, Prishtina.

Professor and Researcher from the University of Prishtina, expert in international law. Interview with the author. 28 October 2016, Prishtina.

Political analyst and journalist, Kosovo 2.0, semestrial magazine. Interview with the author 28 October 2016, Prishtina.

Representative of Students Political Club, student at the University of Prishtina. Interview with the author 28 October 2016, Prishtina.

Delegation of the EU official, Interview with the author, unrecorded discussion, 28 October 2016, Prishtina.

Kosovo Government official, Ministry of European Integration, Interview with the author, unrecorded discussion. 28 October 2016, Prishtina.

PDK party official, party in the ruling coalition, Interview with the author, unrecorded discussion 28 October 2016, Prishtina.

(Endnotes)

1 Joanna Hanson, LSE Blog, “The Association of Serb Municipalities – The sum of all fears”, 07.07.2015, <http://blogs.lse.ac.uk/lsee/2015/07/07/the-association-of-serbian-municipalities-the-sum-of-all-fears/>.

2 This designation is without prejudice to positions on status, and is in line with UNSCR 1244/99 and the ICJ Opinion on the Kosovo declaration of independence.

3 The ACSM would include the following municipalities: North Kosovska Mitrovica, Zubin Potok, Leposavić, Zvečan, Štrpce, Klokot-Vrbovac, Gračanica, Novo Brdo, Ranilug, Parteš, and possibly Dragaš.

4 Still not concluded at the time when this article was drafted (November 2016)

5 The differences between those concepts are not purely theoretical, especially when they are confronted with the complex cases of post-conflict transformation after the dissolution of Yugoslavia. The simple fact of naming a process as *mediation*, *facilitation* or *dialogue* may have important political effects which impact the process itself.

6 In November 2009, a joint Council and Commission Concept provided a policy basis for EU engagement in the area of mediation and dialogue, and makes concrete proposals on how to strengthen the Union’s capacity and support to EU and EU-backed mediators. Based on the tasking by the Political and Security Committee of 31 July 2009, this Concept is part of the follow-up and implementation of the European Security Strategy (ESS) of 2003 and the SG/HR’s 2008 Report on the Implementation of the ESS, both of which refer to the EU engagement in the area of mediation and dialogue. On the basis of this Concept the EU aimed to develop a more systematic approach to mediation and to strengthen its mediation support capacity which will allow it to contribute in a more efficient and effective way to preventing and resolving conflicts. Main requirements for a successful mediation process as mentioned in the document are: “substantial expertise, knowledge, technical capacity, engagement at different levels over time as well as co-operation with other actors in order to be effective and to improve its chances of success” more in Concept on Strengthening EU Mediation and Dialogue Capacities, pp 11-12, available at [http://eeas.europa.eu/archives/docs/cfsp/conflict\\_prevention/docs/concept\\_strengthening\\_eu\\_med\\_en.pdf](http://eeas.europa.eu/archives/docs/cfsp/conflict_prevention/docs/concept_strengthening_eu_med_en.pdf)

7 EU has previously mediated the Ohrid Agreement in FYROM (Macedonia) in 2001.

8 Those studies were selected from a series of relevant and visible think tanks from Kosovo, the region of the Western Balkans or international (see Annex 1).

9 The dialogue was launched following the adoption of the UN General Assembly Resolution 64/298 (2010).

10 Author’s informal discussion with Government official, Prishtina, 26 October 2016.

11 Author’s interview with representative of Kosovo Government, Ministry of European Integration, unrecorded, Prishtina, 28 October 2016.

12 Author’s interview with representative of Kosovo Government, Ministry of Local Governance, (LDK), Prishtina, 26 October 2016.

13 Author’s interview with representative of Kosovo Government, Ministry for Dialogue, (LDK), Prishtina, 27 October 2016.

14 Author’s interview with representative of AAK, political party in the opposition, Prishtina, 26 October 2016.

15 Author’s interview with representative of AAK, political party in the opposition, Prishtina, 26 October 2016.

16 Author’s interview with representative of AAK, political party in the opposition, Prishtina, 26 October 2016.

17 Author’s interview with representative of Vetevendosje, political party in the opposition, Prishtina, 27 October

2016.

18 Author's interview with representative of Youth Initiative for Human Rights, Prishtina, 24 October 2016.

19 Author's interview with representative of Institute of Development Policy (INDEP), Prishtina, 24 October 2016.

20 Author's interview with representative of Institute of Development Policy (INDEP), Prishtina, 24 October 2016.

21 Author's interview with representative of Youth Initiative for Human Rights, Prishtina, 24 October 2016.

22 Author's interview with representative of Advocacy Center for Democratic Culture (ACDC), unrecorded discussion, North Mitrovica, 25 October 2016.

23 Author's interview with representative from bussiness sector in Zubin Potok, North Mitrovica, 25 October 2016.

24 Author's interview with representative NGO Aktiv, North Mitrovica, 25 October 2016.

25 Author's interview with representative NGO Aktiv, North Mitrovica, 25 October 2016

26 Author's interview with representative of EU Info and Cultural Center in Mitrovica, North Mitrovica, 26 October 2016.

27 Author's interview with representative from bussiness sector in Zubin Potok, North Mitrovica, 25 October 2016.

28 Author's interview with representative NGO Aktiv, North Mitrovica, 25 October 2016.

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31 Author's interview with representative from bussiness sector in Zubin Potok, North Mitrovica, 25 October 2016.

32 Author's interview with representative of Advocacy Center for Democratic Culture (ACDC), unrecorded discussion, North Mitrovica, 25 October 2016.

33 Author's interview with representative of EU Info and Cultural Center in Mitrovica, North Mitrovica, 26 October 2016.

34 Author's interview with representative from bussiness sector in Zubin Potok, North Mitrovica, 25 October 2016.

35 Author's interview with representative NGO Aktiv, North Mitrovica, 25 October 2016





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# **The Media Coverage of the Brussels Dialogue and Reconciliation Prospects in Kosovo**

**Andrea Garaiova**

## **Introduction**

Just few months following its widely cheered launch in the autumn of 2012, the prospects of the Brussels Dialogue delivering fundamentally positive results in the relations of Kosovo and Serbia, and Serbs and Albanians, came under doubt. Shining the spotlight on the flaws in the process, commentators and analysts hung question marks over the direction, objectives, length, contents, accountability and transparency of the Dialogue. The latter, transparency, and more generally accessibility and nature of public information regarding the Dialogue, turned into an evergreen of criticisms leveled against the EU-mediated ‘peacebuilding project’. In 2015, the Council for Inclusive Governance, an organisation regularly gathering the most relevant stakeholders from both communities and countries around a common discussion table, called for “a fact-based narrative about the dialogue,” elimination of the win-lose rhetoric by the Kosovo and Serbia leaderships, and for substantive information to be provided to the media (CIG 2015). Seeing these flaws as potentially lethal to the negotiations, others warned against “turning the whole process into a house of cards that will break down at the slightest shake.” (GLPS 2013) Three years and several crucial agreements later, the picture does not appear to be dramatically different. The information vacuum and ambiguity surrounding every step of the process, and

especially its outcomes, now tops the list of reactions to the combination of words 'Brussels Dialogue' in Kosovo.

The media are confronted with particular difficulties when trying to keep their audiences in the loop of what is happening within the process and what are the implications for their everyday lives. But they do not remain idle. Instead, they face the adversity and publish the little information they are able to gather for it to appear in the public arena. This raises a number of questions. In the absence of complete, detailed, accurate information, what are the issues they focus on? How are the topics related to the Brussels Dialogue framed by the media in Kosovo? How do the frames vary between Albanian and Serbian media, and different time periods? Do the perceptions of civil society and experts that Kosovo and Serbia representatives and media outlets use a predominantly victory-defeat vocabulary hold against a systematic examination of the media content?

Via a media content analysis and expert interviews, the present study examines the framing of the Brussels Dialogue related media coverage by Albanian and Serbian newspapers in Kosovo. The study seeks to uncover and analyse dominant frames in the news reporting on the Dialogue and relate the findings to the communication and conflict research, thus sketching the potential impact of the reporting on inter-community relations and prospects for reconciliation in Kosovo. The relevance of the focus of this paper is bolstered by the perception that reporting on the Serbian community in Albanian media and vice-versa is dominated by the talks between Belgrade and Prishtina (Forum for Security 2014). Investigating the coverage of the negotiations is thus of salience for understanding the nature of frames employed by the media and whether they contain a potential for constructive or destructive conflict escalation.

The article proceeds in four sections. Following the introduction, the first section outlines the theoretical framework and the methodology relied upon in the research. The second section focuses its gaze on the results of the content analysis conducted, while the third section offers an analysis of the results, as well as elucidates the conditions and possible implications of the nature of the Brussels Dialogue reporting. The final section concludes and offers directions for future research.

## **Methodology and Conceptual Framework**

### **Methodology**

This research seeks to examine the dominant frames employed by the Albanian and Serbian media in Kosovo in relation to the Brussels Dialogue, to what extent they vary over time and between different media outlets, as well as to sketch out possible consequences of the framing for normalisation of relations and reconciliation prospects among communities in Kosovo.

The theoretical anchor of the research is found in the framing theory and intersection of communications and conflict research, as discussed in detail in the next section of the paper.

To conduct the analysis, the research merges quantitative and qualitative research approaches.

Firstly, it employs media content analysis as a way to identify the dominant framing of media coverage of the Brussels Dialogue in Kosovo. It allows to count “the frequency with which certain kinds of stories occur in the press.” (Deacon 1999, 114) The content analysis method is considered to have a number of advantages - it is replicable, suitable for examination of large data sets, able to uncover wider patterns and trends, and given its quantitative nature more objective than qualitative approaches such as discourse analysis. However, content analysis requires the researcher to make subjective choices, particularly in the design of frames and variables counted and analysed. In order to uncover deeper meanings in the studied texts, quantitative content analysis should ideally be combined with qualitative reading of the sample, and with surveys, experiments, focus groups or other methods for understanding of audience effects of content analysed frames.

This research undertook media content analysis of online content published by one Albanian newspaper (Zëri) and one Serbian newspaper (Večernje novosti) on the theme of the Brussels Dialogue. The newspapers were selected on the basis of availability of their online content for the studied time periods, and their standing and size of readership in Albanian and Serbian communities in Kosovo. While Večernje novosti is published in Serbia, prior research has shown that Serbs in Kosovo receive most of their information from Serbia-based media outlets. The choice of Večernje novosti seems therefore justified.

The sample on which the content analysis was realised included all articles published online on the topic of the Brussels Dialogue by the two selected newspapers over a period of ten days following the signature of the 19 April 2013 and 25 August 2015 agreements between Kosovo and Serbia. The ten-day timeframe was identified as suitable given the agenda- and tone-setting role of the early coverage. What is more, the ten days seemed to be a suitable amount of time for analysis of major frame lines in the Brussels Dialogue coverage as the focus of the media on the issue declines significantly following the initial spike in the number of articles published. In this way, 254 articles were part of the sample, 75 and 113 published by Zëri in 2013 and 2015 respectively, and 56 (2013) and 10 (2015) published by Večernje novosti. The discrepancy in the number of articles for the different newspapers and time periods constitutes an obvious limitation of this research. However, this is a result of including all articles related to the Brussels Dialogue into the sample, which enables us to get a full picture of the media coverage.

On the basis of prior research of the policy debate in Kosovo with regards to the Brussels Dialogue, three media frames were identified for examination via the media content analysis - issue frame, conflict frame and status frame. The former was further broken down into sub-categories according to issues salient for Albanian and Serbian communities in Kosovo. Each frame/sub-category was composed of several variables whose presence was counted in every article with the help of a computer programme. A cursory reading of 10 percent of articles was performed to complete the list of counted variables. The specific variables are detailed in the Results section. They were first developed in English and subsequently transposed into Albanian and Serbian, with a few adjustments for the differences in languages. The lemmatised version of words was used for the counting so as to ensure that all relevant forms of words are captured via the automatised process of counting.

The media content analysis was complemented by 20 qualitative semi-structured interviews with members of civil society and media from both Albanian and Serbian communities. Inter-

viewees were chosen on the basis of their knowledge of local communities, expertise regarding the Brussels Dialogue and media/journalistic experience. The interviews were conducted in October and November 2016.

The presented research design has a number of important limitations and a word of caution is in order. The two content analysed newspapers constitute a small excerpt from a much wider and richer media landscape, most of which reports and comments on the Brussels Dialogue process. Additionally, the studied time periods can give us a solid idea of the direction media coverage took after the two landmark agreements of the process, but fail to provide us with a picture of media rhetoric when more minor issues are being discussed in the Dialogue. Finally, as previously mentioned, the content analysis here chooses to focus on examining presence of some frames, but not others, thus constraining the pool of outcomes. However, despite the aforementioned limitations, this study offers valuable insights into the problematique of Brussels Dialogue media framing in Kosovo, highlights the relevance of the media content analysis for studying the topic, and sketches contours for future, more extensive, research.

### **Conceptual Framework: Framing Theory**

From provision and verification of information (Dimitrova and Stromback 2008), setting of the policy agenda (Saraisky 2015), to serving as a filter for whose voice gains access to the public arena (Saraisky 2015), media play multiple roles in the policy landscape. Even though the mechanisms and degree to which media accounts influence policy decisions and public opinion have been subject to a long-raging debate (Saraisky 2015), the existence of the effect has been acknowledged in the media and policy scholarship (Dimitrova and Stromback 2008). Through the process of framing, the media shape our understanding of events and policy issues by selecting “some aspects of a perceived reality and make[ing] them more salient in a communicating text in such a way as to promote a particular definition, causal interpretation, moral evaluation, and/or treatment recommendation.” (Entman 1993, 12) The way media report on a particular topic, highlighting some aspects while marginalising others (Entman 1993), thus has the power to structure the mental framework used by the audience to think about the public problem, event or issue at hand. According to Kuypers, “facts remain neutral until framed.” (Kuypers 2002, 7) By calling our attention to a certain piece of information, “news effectively makes that piece of information more noticeable and memorable to audiences.” (Entman 1993, 53) Research has demonstrated the effect of media frames on public perceptions of political issues (Semetko 2000). The power of frames is tied to their cultural resonance; the more a media frame fits with the cultural and social affinities of the given audience, the greater the chances it will take roots in the latter’s understanding of the policy issue (Saraisky 2015). Given their potential to influence public opinion, political representatives are motivated “to compete for news frames.” (Entman 1993, 55)

Identification and analysis of dominant frames used by the Serbian and Albanian media with regards to the Brussels Dialogue can thus offer us valuable insights into the way the public debate on the issue is shaped in the Albanian and Serbian communities in Kosovo. However, it is crucial to underscore that what is analysed here are ‘frames of communication’ i.e. frames employed in units of communication (news articles), as opposed to ‘frames of thought’, i.e. frames of thinking present in a particular population (Callaghan 2005, 3). It is not within the scope of the present research to establish a reliable link between the media frames and audience perceptions, as

this would require the use of sophisticated research techniques such as experiments and surveys that were not available for the implementation of the present research project. Rather, the study's aim is to demonstrate the value of media content analysis through examining the frames utilised by media outlets in the context of the Brussels Dialogue, and to lay foundations for a more extensive research in the future.

Frames are time and space contingent - they vary with the conditions of the wider policy environment in which they are employed. Even similar events can thus be framed differently in different environments (Dimitrova and Stromback 2008). This is both a fundamental basis for, and confirmed by, this research. Using certain frames rather than others in reporting on the Brussels Dialogue, the media may effectively guide the audience towards certain interpretations and aspects of the Brussels Dialogue reality. This is all the more salient in Kosovo as the two main communities are served by media coverage from two different countries whose dispute the Dialogue is trying to solve. Dominance of different frames in each medium examined can therefore be expected.

While some frames have been more popular for use in framing analyses than others, no universally applicable list of frames in policy research exists. However, conflict frames are commonly found in news coverage, with demonstrated effects on public opinion concerning a diverse pool of issues (Reuben 2009). The conflict frame was therefore included into the content analysis. On the basis of prior research of the framing theory and existing literature on the Brussels Dialogue, this study identifies three main frames - conflict, status and issue - and examines their presence in reporting on the Brussels Dialogue by Serbian and Albanian media. It therefore operationalises the deductive approach as defined by Semetko, "predefining certain frames as content analytic variables to verify the extent to which these frames occur in the news." (Semetko 2000, 94) While one of the most obvious limitations of such an approach is the risk of omitting certain frames or variables, it can be applied to large samples, allows for inter- and intra-media comparisons, and lends itself to relatively simple replication (Semetko 2000). Most importantly, it allows us to sketch an answer to the questions: How do the media in Kosovo cover the Brussels Dialogue? Do they use some frames more than others? What aspects do they choose to highlight? The results of the conducted media content analysis are presented in the subsequent section. They are then analysed together with the findings gathered through interviews and review of existing secondary sources.

## **Media Communications and Conflict**

The multitude of roles media have played in conflicts over the past thirty years sparked the interest of scholars to dig deeper into how their power can be harnessed both for positive and negative conflict outcomes. While the media has been found to fuel the quagmire in Rwanda, as well as fanning the grievances in the Chechnyan and Yugoslav wars of 1990s, the media's potential to encourage and support conflict resolution was demonstrated in the intractable conflict in Northern Ireland. In Kosovo, it is commonly accepted that the media contributed to the escalation of a new wave of violence during the 2004 riots (INDEP 2013). According to the assessment of conflict sensitivity of media in Kosovo conducted by the Forum for Security ten years later, the public disturbances of 2004 highlighted the urgency to report on inter-ethnic and community issues with particular care (Forum for Security 2014). The assessment concluded a low

likelihood of recurrence of conflict inducing reporting in the future, despite the fact that both Albanians and Serbs feel to be represented mostly negatively in the media of the other community (Forum for Security 2014). This report takes the definition of conflict-sensitive reporting as a “practice of actively seeking to avoid potentially conflict inducing language and framing” used by journalists, and through the application of media content analysis and framing theory, as described above, evaluates the potential of frames used by media in covering the Brussels Dialogue to contribute to inter-community tensions or, on the contrary, reconciliation in Kosovo.

Reuben undertakes a useful synthesis of mass communications research and conflict theory, and asserts the moderating position of media who possess the capacity to encourage destructive as well as constructive escalation of conflicts (Reuben 2009). Destructive escalation occurs when media framing amplifies the zero-sum mindset, fuels polarisation of news audiences and marginalises one or several sides (Reuben 2009). The dispute is thus framed as something to be won or lost by one or the other party (Reuben 2009), victory of one typically being perceived as a failure of the other. This is of particular salience to this research which scrutinises occurrence of conflict-inducing frames in the Brussels Dialogue related media coverage - frames that perpetuate the zero-sum prism through which Serbs and Albanians see the Brussels process and polarise the two biggest communities in Kosovo. What is more, any mutual interest gets devalued in the process, not allowing the constitution of the necessary foundation for fruitful negotiation and conflict resolution as a step towards ultimate reconciliation. On the other hand, constructive escalation manifests through increased communication, (at least partial) satisfaction of needs, concerns and interests, relationships strengthened through understanding, and greater trust and respect (Reuben 2009). Contrasting the two approaches, they can be personified in media news by “reporting of positions versus interests, narrow versus contextual approaches to reporting, problem-oriented versus adversarial frames, zero-sum versus positive-sum outlooks toward the conflict or dispute...” (Reuben 2009) Against the backdrop of the theoretical framework presented above, the following sections recount the results of the conducted media content analysis, and perform an in-depth analysis of framing of the Brussels Dialogue by Albanian and Serbian media in Kosovo.

## Results

Results of the media content analysis of the Brussels Dialogue coverage reveal insightful differences in issues reported on by the Serbian and Albanian dailies online in 2013 and 2015. The measured frequencies of word occurrences reflect the salience of particular issues within each community and the change in their salience over time. The table below (Table 1) presents the results for all three frames - Issue Frame, Conflict Frame, Status Frame - with the former further broken down into several sub-categories.

### Issue Frame

#### *Normalisation/reconciliation*

Normalisation of relations between Kosovo and Serbia has been the purported goal of the political Dialogue launched between the two foe-countries in 2012. Few months after its initiation Edita Ta-



hiri, the chief negotiator for Kosovo, went as far as dubbing the Dialogue ‘a peacebuilding project’. However, by December 2016, such lofty ambitions seem to have given way to the complex political reality in which the process unfolds. In order to capture the spectrum of expectations from the results of the Brussels process with regards to inter-state and inter-community relations, the normalisation/reconciliation sub-category encompasses words ‘normalisation’, ‘peace’ and ‘stability’.

Roughly the same proportion of articles published online by the Serbian medium in 2013 and 2015 contains words from this sub-category (44,6 percent and 40 percent), while focus of the Albanian medium decreases from 45 percent to almost 20 percent between the two observed time periods. It needs to be noted that a strong majority of the counted frequencies corresponds to the word ‘normalisation’ as part of the name of the First Agreement reached between Kosovo and Serbia in April 2013. The attention paid to the potential implications of the Agreement for reconciliation is therefore very limited, most articles failing to venture outside of recounting strict facts of the process.

### *Implementation*

The implementation sub-category is composed of words ‘implementation’ and its synonyms in both languages. The focus of media coverage on the translation of the provisions agreed within the Brussels negotiations into reality on the ground seems to have decreased over time, with the Serbian medium referring to implementation in 62,5 percent and 40 percent of articles in 2013 and 2015 respectively, and the Albanian medium marking a decrease from 38,7 percent to 16,8 percent for the two timeframes.

### *European integration*

The progress on the path towards the European Union being tied to the progress in the Brussels Dialogue for both parties, and concomitantly serving as the main ‘carrot and stick’ instrument to keep Serbia and Kosovo engaged in the process, the implications of results within the Dialogue for European integration of both countries was included into the analysis. The sub-category encompassed words relating to EU integration, such as ‘Stabilisation and Association Process’, ‘visa liberalisation’ as well as different variations of ‘EU integration’ itself. As the conclusion of the First Agreement on the Normalisation of Relations of 2013 was closely tied to reaching the next stepping stones in the EU integration for both countries (candidacy for Serbia and SAA for Kosovo), a significant proportion of Albanian and Serbian media articles on the Brussels Dialogue highlight this link, the former in more than one quarter and the latter in more than one third of articles published at the end of April 2013. In 2015, only one article in the Serbian medium mentions EU integration, whereas almost 20 percent of the articles published by the Albanian medium contain such reference.

### *Survival*

The survival sub-category was added to the Issue Frame after a cursory reading of randomly selected 10 percent of the sample. The results of the media content analysis for this variable display a dramatic difference in salience for Serbian and Albanian media. The sub-category relates to the assigned importance of the Brussels Dialogue and its outcomes for the survival of



communities, specifically the Serbian community in Kosovo. While the Serbian medium makes the survival reference in 19 percent and 40 percent of articles on the Brussels Dialogue in 2013 and 2015 respectively, the Albanian medium mentions it in a single article for both periods, amounting to roughly 1 percent of Brussels Dialogue coverage.

### *Autonomy, Referendum, Reciprocity*

The frequencies of sub-categories autonomy, referendum and reciprocity in the coverage of the Brussels Dialogue and its implications reflect the resonance of the issues within the Serbian and Albanian communities. The issue of referendum on the April 2013 Agreement was very much alive in the Serbian medium in the period immediately following its conclusion (50 percent), but by the time the August 2015 agreement saw the light of the day the referendum question was very much a story of the past (0 percent). The discussion surrounding potential autonomy for Serbian majority municipalities in Kosovo, particularly the North, encountered a similar fate (almost 20 percent in 2013, 0 percent in 2015). However, the situation in the Albanian medium was different. The risk of parts of Kosovo gaining autonomous status kept the interest of approximately the same proportion of articles published on the topic of Brussels Dialogue (approximately 1 in 8 in 2013 and 1 in 7 in 2015), but the referendum question never captured its attention. Finally, similarly as the referendum discussion was alive almost exclusively in the Serbian medium, the reciprocity debate sparked by representatives of the Albanian community in the Preshevo valley (advocating for rights and guarantees of Albanians within Serbia equivalent to those of Serbs in Kosovo) was an exclusive domain of the Albanian medium, particularly in 2015 when the Association/Community of Serb Majority Municipalities (ASM/CSM) gained some more concrete contours.

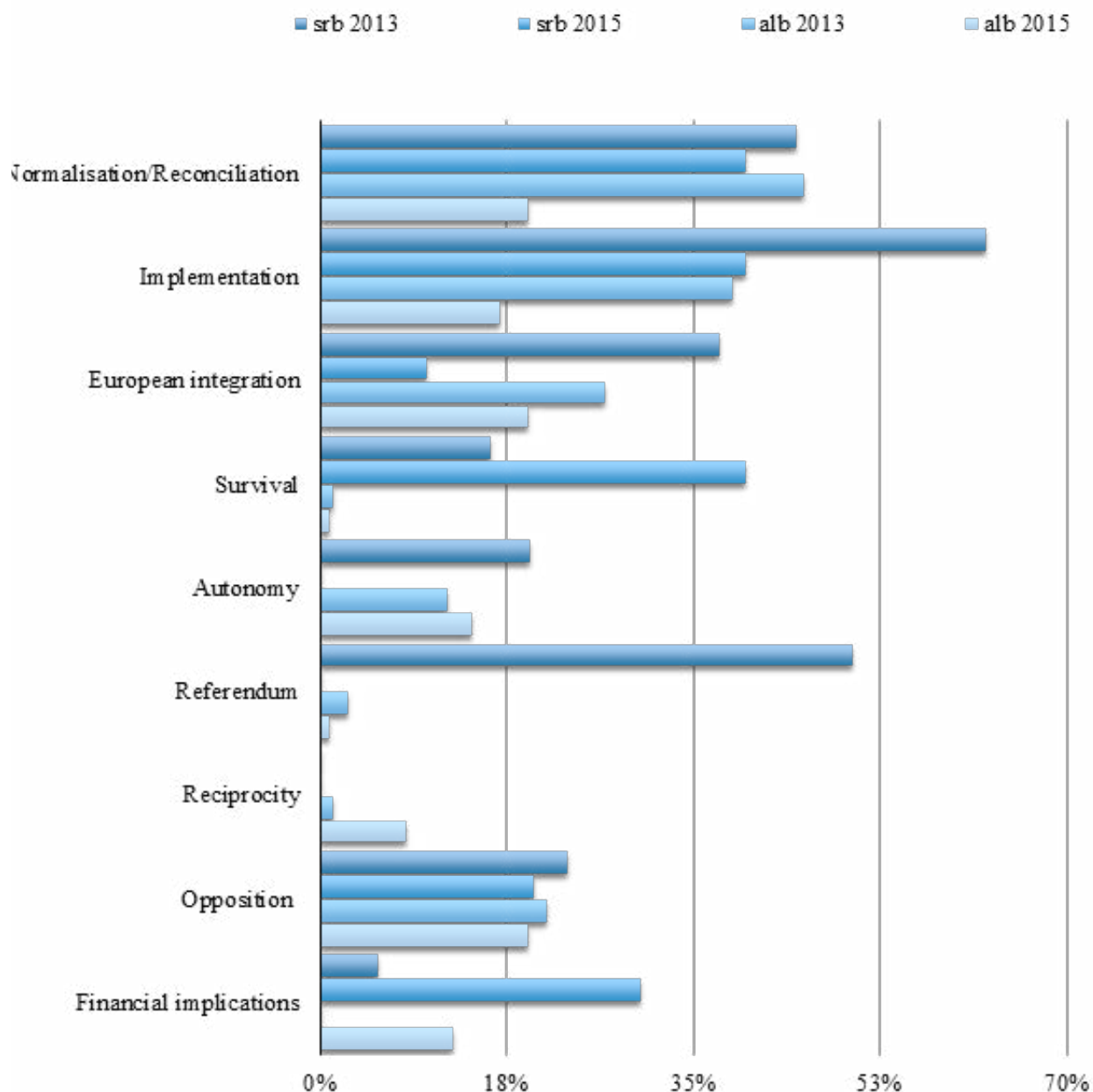
### *Opposition to the Dialogue and its outcomes*

The opposition sub-category was included to measure the level of opposition to the Dialogue and its outcomes as presented in the media. Words related to opposition, disagreement and protest were counted as part of the sub-category. The frequencies are relatively constant across both time and media, remaining close to 20 percent of all articles published on the Brussels Dialogue.

### *Financial implications*

As the ASM/CSM went through a process of (limited) concretisation between 2013 and 2015, media's attention to its financial implications and sources of financing increased, reaching 30 percent of the Serbian coverage and above 12 percent of the Albanian coverage of the Dialogue in 2015.

Figure 1. Issue Frame (broken down into sub-categories)



### ***Conflict Frame***

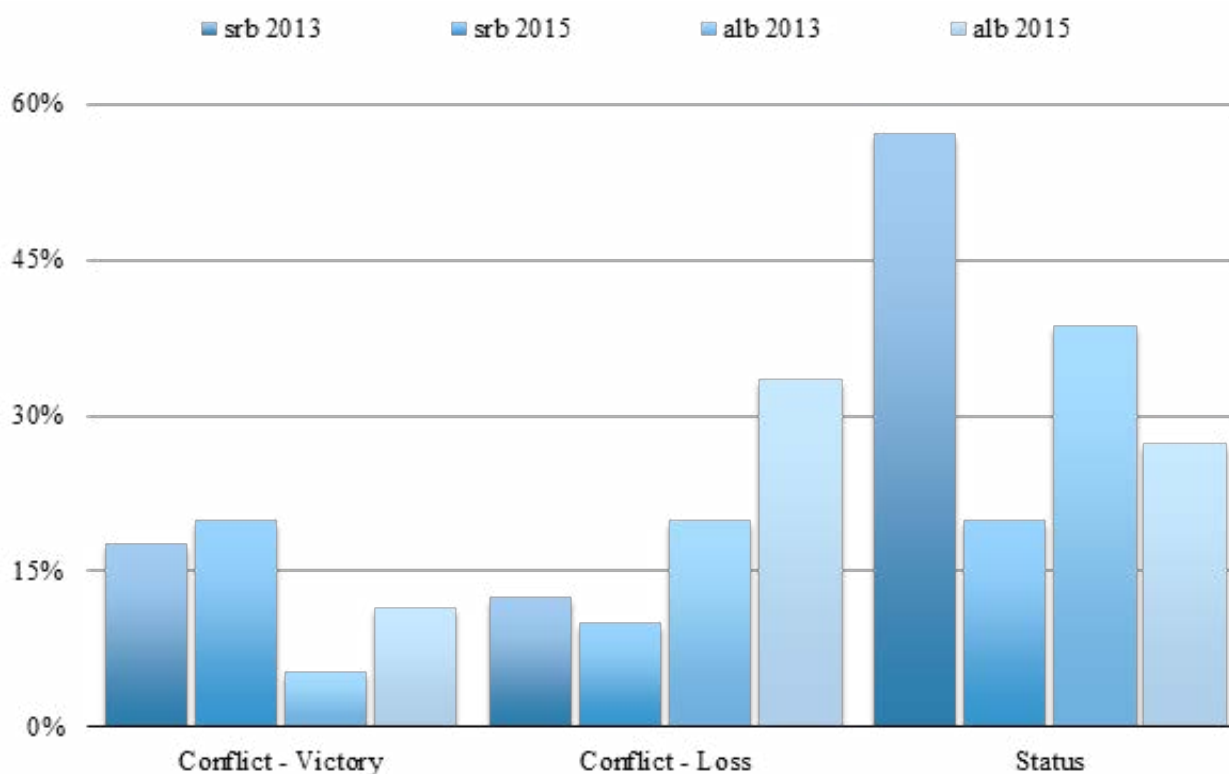
Word frequencies measured to evaluate the presence of a Conflict Frame within the sample were synonyms and close expressions of 'loss' and 'victory'. While results for the Serbian medium display relatively balanced mentions of both loss and victory for Serbia, the Albanian newspaper is skewed towards presenting the Brussels Dialogue as a failure for Kosovo (Figure 2 below). A notable increase in loss related references can be observed between 2013 and 2015; from about one fifth to roughly one third of articles referring to the Dialogue outcomes as losses. At

the same time, even though mentions of victory have more than doubled over the same period, they are present in not much more than one tenth of articles published by the Albanian medium on the topic in August 2015. On the other hand, the tone is slightly more positive in the Serbian medium. While approximately one fifth of articles in 2013 and 2015 referred to the Brussels Dialogue as a victorious endeavour, only about half of that saw it through the lens of defeat.

## Status Frame

Despite the fact that negotiations on the status of Kosovo have been deliberately and purposefully excluded from the Dialogue from its very beginning in order to facilitate discussions on other less politically sensitive topics, representatives of both negotiating teams, and concomitantly the media reporting on the negotiations, have readily engaged in rhetoric touching upon Kosovo's status. The word frequencies measured within the Status Frame were 'sovereignty', 'recognition', 'status', 'independence', 'territory', 'in line with Kosovo laws/Constitution'. The results of the content analysis indicate that the First Agreement of April 2013 ignited more debate around the status of Kosovo (57 percent for Serbian medium and almost 39 percent for Albanian medium), although it remained very much alive in 2015 following the August 25 Agreement (20 percent and 25 percent respectively).

**Figure 2. Conflict Frame and Status Frame**



**Table 1. Occurrence of frames in Albanian and Serbian medium in April 2013 and August 2015**

		srb 2013 (56)	srb 2015 (10)	alb 2013 (75)	alb 2015 (113)
Issue frame					
	Normlisation/Rec- onciliation (peace, stability, normaliza- tion)	25 44,6%	4 40%	34 45,3%	22 19,5%
	Implementation	35 62,5%	4 40%	29 38,7%	19 16,8%
	European integration	21 37,5%	1 10%	20 26,7%	22 19,5%
	Survival	9 16%	4 40%	1 1,3%	1 0,9%
	Autonomy	11 19,6%	0 0%	9 12%	16 14,2%
	Referendum	28 50%	0 0%	2 2,7%	1 0,9%
	Reciprocity	0 0%	0 0%	1 1,3%	9 8%
	Opposition	13 23,2%	2 20%	16 21,3%	22 19,5%
	Financial implica- tions	3 5,4%	3 30%	0 0%	14 12,4%
Conflict frame					
	Victory	10 17,6%	2 20%	4 5,3%	13 11,5%
	Loss	7 12,5%	1 10%	15 20%	38 33,6%
Status frame		32 57,1%	2 20%	29 38,7%	31 27,4%

## Discussion

### **‘Constructive ambiguity’'s destructive turn**

Constructive ambiguity has become the leading expression in the panoply of denominations uttered by analysts and commentators in relation to the Brussels Dialogue. In slightly more prosaic terms, the expression embodies the most cited flaw of the process - general lack of transparency and absence of information on objectives, contents, progress and outcomes of negotiations. In fact, the non-transparent nature of the Dialogue was highlighted with particular urgency by all interviewees in this research. As information remains centralised and hidden from the public eye, the information vacuum opens a door to diverse interpretations of the same events and agreements reached (all interviewees as listed at the end of the paper 2016). Political leaders being the gatekeepers of information about the Dialogue, the media struggle to go beyond simple reproduction of official statements in their reporting on the process.<sup>1</sup>

The results of the framing analysis presented in the section above show that the Conflict Frame is one of the strongest frames used by the media with regards to the Brussels Dialogue. However, a number of caveats should be noted. First, the Conflict Frame is particularly pronounced for the Albanian medium examined and marks an increase between 2013 and 2015. In fact, it is the strongest of all frames for the Albanian medium in 2015, while two years prior to that the frame occupied the fifth place. The Conflict Frame does not particularly stand out for the Serbian medium for either of the two studied periods. Nevertheless, dominance of a ‘win-lose’ rhetoric was underscored by interviewees from both communities as one of the defining features of reporting on the Brussels Dialogue.<sup>2</sup> This may be explained by the resonance of the win-lose lens in both communities, which makes it easier to be picked up by the audience among all the other information noise they receive about the Dialogue.

Second, while other frames seem to prevail over the Conflict Frame for different media in different years, it should be emphasised that the other competing frames are mostly constituted of mentions of single words counted within each frame. Thus, the Normalisation/reconciliation frame derives its apparent strength from the number of mentions of the name of the April 2013 Agreement (First Agreement on the Normalisation of Relations between Kosovo and Serbia), rather than from the articles performing an analysis of the Brussels Dialogue's implications for normalisation or reconciliation in the region. Similarly, the Implementation and European integration frames are predominantly composed of simple mentions of the need for/failure to implement the concluded agreements by the two parties and of the link between progress in the Dialogue and the countries' path towards the EU.

Third, it seems plausible to conclude that the dominance of the Conflict Frame is further strengthened by the Status Frame. As the Status Frame encompasses the issues of sovereignty, recognition, territory and independence, and as securing of Kosovo's territorial integrity and sovereign statehood has been the neuralgic point of the conflict between Kosovo and Serbia in which loss of jurisdiction by one is inevitably gain by the other, the Status Frame can be understood as a different, contextually salient, manifestation of the Conflict Frame. As advanced by Dimitrova and Stromback and Entman, “frames that are culturally congruent are most influential on public opinion,” (Dimitrova and Stromback 2008, 205) as they employ “words and images highly salient in the culture, which is to say noticeable, understandable and emotionally

charged.”(Entman 2004 in Dimitrova and Stromback 2008, 205) The congruence with the independence prism in the Kosovo society lends particular potency to the Status Frame and its contribution to the adversarial logic embodied by the Conflict Frame. From such a perspective, the adversarial mindset warned against by Reuben seems to prevail over the problem-oriented attitude towards the Brussels Dialogue in both Kosovo Albanian and Serbian media (Reuben 2009). Accompanied by coverage favouring positions of parties rather than their interests, and narrow factual reporting as opposed to a wider contextual approach, the media can contribute to the polarisation of the audience and ultimately to destructive conflict outcomes (Reuben 2009). This creates a fertile soil for a vicious circle of polarisation; if reporting feeds polarisation between communities, it encourages political representatives to continue with the polarising rhetoric as they seek to match the public moods for reasons of political expediency. This then finds its way back to the media news, which is in turn further facilitated by the general scarcity of information and the media reliance on official statements regarding the Brussels Dialogue. The relevance of the Conflict Frame for understanding the messaging the public receives and absorbs on the Dialogue process is underscored by the inclusion of a question on whom does the public consider to be the winner and the loser of the Brussels Dialogue by a widely respected KCSS Security Barometer (KCSS 2016).

While the evidence at the disposal for this paper does not allow for the establishment of a causal link, corroboration of the framing analysis with assessments collected through interviews yields interesting results when it comes to the impact of media coverage of the Brussels Dialogue on inter-community relations. Most interviewees opine that the general situation has improved since the start of the Dialogue, the latter relaxing political tensions and providing a sort of green light for communication between communities by previously ferociously inimical political leaderships.<sup>3</sup> At the same time, however, the polarising rhetoric of Kosovo and Serbia officials in the media heightens fear<sup>45</sup> and inhibits deeper forms of interaction,<sup>6</sup> thus creating a barrier for reconciliation.<sup>7</sup> Previous research has found that the official rhetoric is viewed as inflammatory and may lead to destabilisation (NGO Aktiv 2015) and renewal of conflict (Forum for Security 2014). A political analyst from the Northern Kosovo goes as far as asserting that the publicly presented conflicting stances are “building up a new wall between Serbs and Albanians” of Kosovo.<sup>8</sup> In another instance, the Executive Director of the Development for Democracy Institute elucidates that occurrences of particularly insensitive public declarations of Kosovo representatives are typically followed by a decrease in willingness of Kosovo Serbs to participate in the Institute’s inter-community activities.<sup>9</sup> The fact that the political representatives of Kosovo and Serbia are speaking to each other is thus an important signalling to the communities that communication is sanctioned, but the zero-sum rhetoric can contribute to suspicions between them. Moreover, the official declarations that normalisation of relations is the purported goal of the Brussels Dialogue are not seen as honest by neither Serbs nor Albanians of Kosovo, of which the conflicting rhetoric of the negotiating parties is the most obvious manifestation.<sup>10</sup>

In addition to create space for the perpetuation of a zero-sum mindset through particular media framing of the Brussels process, the current version of ‘constructive ambiguity’ shapes the public debate regarding the Dialogue, focusing the public attention onto some issues (Dimitrova and Stromback 2008), i.e. the issues of win or lose and statehood, while marginalising or being completely myopic to others, i.e. the concerns of the communities in relation to the Dialogue and its outcomes, challenges faced on the ground by people affected by the implementation of

agreements. As a result of the ambiguity by which many of the agreements come to be enfolded, energies can be expended by civil society, activists, opposition or the media themselves to debate, worry about and challenge unclear provisions whose risks for Kosovo are being inflated. Kosovo spent over six months agonising over the consequences of the Association/Community of Serb Majority Municipalities for its governance and constitutional system. The time and energy could have been directed towards solving the many adversities it faces had the Kosovo and Serbia representatives offered less contradictory public statements about the contents of the August 2015 agreement. While focusing on imagined, but within the existing political environment justified, threats, the media miss an opportunity to serve as a facilitator between communities and positively contribute to the normalisation of relations in Kosovo.

Following the analysis above, it appears to be no exaggeration to propose a renaming of the oft-cited 'constructive ambiguity' to a 'destructive ambiguity'. From the media perspective, it leads to reproductions of official spins on the content of the Brussels negotiations, which favours occurrence of media frames that can foster zero-sum mindset in the media audiences. Not only may it have a negative impact on inter-community relations, but the potential of media to serve as a facilitator of reconciliation is lost in the process.

### **Media on Brussels Dialogue: struggling to make magic out of thin air**

The framing of the Brussels Dialogue related media coverage examined above is closely tied to the situation of media in Kosovo and Serbia, as well as to the centralisation of information about the process in the hands of the few participating members of the negotiating teams.

Negotiators themselves are in a position of gatekeepers, the media gain access only to the information that the negotiators decide to communicate to the public. Not being able to add much of information investigated on their own, the framing in media is therefore inevitably consistent with the politicians' stances. What is more, when asked substantive questions, they fail to provide substantive answers.<sup>11</sup>

The media are confronted with a particular difficulty to bring even the basic information to the public and are not able to fully exercise their function of fact verification.<sup>12</sup> As demonstrated by one of the latest agreements, the agreement on the international dial code for Kosovo, officials do not shy away from declaring successful signing of an agreement without publishing its contents for the media to report and for the public to see for weeks.<sup>13</sup> The media are thus left to grope in the dark, trying to provide the little information they can get hold of.

A particular challenge to the reporting on the Brussels Dialogue is the limited independence of some media, negative effect of which is compounded by limited resources.<sup>14</sup> While the public news outlets toe the line of political representatives, media struggling to provide more independent reporting face intimidation, threats of losing jobs and even physical attack (Mitrovački Društveni Klub 7). The Kosovo Sever portal, the main medium in Serbian language in Kosovo systematically reporting and offering analyses on the Brussels Dialogue, was a victim of such an attack and was told to "not have the right to interpret declarations" (MDK 7). As a result, many journalists, consciously or unconsciously, resort to auto-censure, which some claim to have overtaken censure in frequency (MDK 7). This is particularly the case for the Serbian media, including those based in Kosovo. Financial independence is a challenge faced by media in both



communities, which constrains the ability of the media to produce a bias-free reporting on the Brussels Dialogue (Forum for Security 2014). Several interviewees cited the lack of training as a reason behind less than conflict-sensitive reporting on the Brussels Dialogue, as well as limited investigative capacities, not enough human resources and time to cover the issue more deeply, and the urgency to offer reporting that will draw the interest of the audience.<sup>15</sup> Tendency towards sensationalism seems to play a role,<sup>16</sup> as well as lack of awareness of the potential effects of particular ways of reporting on inter- and intra-community relations.<sup>17</sup>

### **Collective anesthesia as a tool of political maneuvering**

While a public opinion research conducted in early 2014 showed high trust of Kosovo Albanians and Kosovo Serbs alike in the reliability of information provided by the media on the Brussels Dialogue, the research conducted in autumn 2016 seems to paint a different picture. Virtually all interviewees affirmed that both populations are mostly aware of incompleteness and inaccuracy of information available on the Dialogue in media coverage, but noted that more than quality of media reporting this reflects the reluctance of political leaders to share information with the public. Interviewees across-the-board asserted that the main reason behind the secretiveness of the political elites of both countries should be found in their conviction that full, accurate and honest messaging would be politically inconvenient given the affinities of their respective constituencies. Specifically, the removal of Serbian jurisdiction and transfer of the Serbian North of Kosovo to Kosovo's jurisdiction, and the compromises required by the Kosovo governance system to accommodate new institutions of Kosovo Serbs. Thinking that they may not be able to satisfy the preferences of voters and fearing potential destabilisation should the full facts see the day of light, they prefer to conceal them. This is particularly relevant for Northern Kosovo where full disclosure about the slow departure of the Serbian state from the territory spearheaded by the Brussels process is believed to potentially lead to public disturbances or massive departure of Serbs from Kosovo.<sup>18</sup> However, despite all the effort expended by both political leaderships, the population seems to be increasingly aware of what most likely lies behind the veil of secrecy.<sup>19</sup>

While the two communities can have very different views on the meaning of outcomes of the Brussels Dialogue for their future in Kosovo, commentators from both sides share the opinion that the process is deliberately constructed in such a way so as to extend it into the far future.<sup>20</sup> The slow pace of publication of agreements concluded is believed to be a tool for preparing the publics for unpopular measures,<sup>21</sup> whereas the slowness of the process as a whole should have a numbing effect on the population, working as a form of "anaesthesia needed to facilitate compromise-making". Indeed, both Albanian and Serbian interviewees report increasing resignation and apathy in their communities, seeing participation in public debate regarding the Dialogue to be futile given its intractable nature. This is particularly problematic because an effective implementation of the agreements will ultimately require participation, whether active or passive, of all echelons of the society, including the grassroots.

Finally, Albanian and Serbian interviewees share one more common point of view - rather than aspiring to normalising the relations between the two countries and communities, the Brussels Dialogue is a political enterprise of Kosovo and Serbian leadership aimed at preserving their political relevance for the EU as those on whose shoulders the resolution of the Kosovo conundrum stands.<sup>22</sup>

All the aforementioned serves to highlight the spreading scepticism regarding the motivations behind and direction of the Brussels Dialogue, which, together with the unsatisfactory implementation and speed, is related to the way public communication about the process has been handled. Fundamental reshaping of the process may be needed to prevent it from turning into an empty shell of not much more than sheets of agreements fading away in the drawers of Prishtina, Belgrade and Brussels.

## Conclusions

Rooted in framing theory, and communications and conflict research, this study performed a media content analysis of the Brussels Dialogue related coverage in Serbian and Albanian newspapers. Answering the questions posed at the outset, it has demonstrated a presence of conflict oriented framing of the process in online media articles, while at the same time highlighting the resonance of the zero-sum mindset in the audiences in Kosovo. Struggling with access to information, media resort to simple reproduction of official statements by political representatives who do not shy away from adversarial rhetoric. Although the Conflict and Status frames fluctuate between time periods and studied newspaper sources, together they constitute the dominant lens through which the process and outcomes of the Brussels Dialogue are communicated by the media in Kosovo. The perceptions of civil society members and experts gathered through interviews that media outlets use a victory-defeat vocabulary in relation to the Dialogue is therefore supported by this research.

What is more, its results point towards a potential influence of the nature of reporting on reconciliation prospects in Kosovo. The present paper sketches basic contours for further examination of existence of such a linkage. Expanding the sample by articles from other newspapers, also including tabloid and other types of print media, or conducting content analysis with other media such as television or radio should yield interesting results. Analysing the media coverage regularly might also be extremely revealing as results may be moderated by media content published in times not directly following landmark moments in the process. Finally, to be able to assert a causal link between media framing and audience effects, experiments or surveys could be conducted. Potentially, the approach employed here could be extended to the question of implementation of Brussels Dialogue outcomes and how the willingness to positively contribute to implementation by different audiences could be encouraged by media content.

By drawing attention to the potentially destructive effects of the current form of reporting, this research brings to light the possibility and space for the reframing of Brussels Dialogue media coverage in a way that would nurture constructive escalation and conflict outcomes. Human, financial and political resources would however be needed for such an endeavour, something that does not seem to be lurking on the horizon in the near future.

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Shpend Emini. interview with the author. 2016. D4D Institute, Prishtina.

Miloš Golubović. interview with the author. 2016. Kosovska Mitrovica.

Abit Hoxha. interview with the author. 2016. University of Munchen, Prishtina (online interview).

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Trim Kabashi. interview with the author. 2016. European Center for Minority Issues, Prishtina.

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Marko Rakić. interview with the author. 2016. Kosovska Mitrovica.

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Miloš Subotić. interview with the author. 2016. Kosovska Mitrovica.

Edita Tahiri. interview with the author. 2013. Prishtina.

Stefan Veljković. interview with the author. 2016. Sinergija, Kosovska Mitrovica.

Miloš Vukadinović. interview with the author. 2016. Kosovska Mitrovica.

Arbana Xharra. interview with the author. 2016. Zëri, Prishtina.

## (Endnotes)

- 1 Author's interview with Besa Shahini, 2016, Prishtina.
- 2 Author's interview with Stefan Veljković, 2016, Kosovska Mitrovica; Author's interview with Milica Andrić, 2016, Kosovska Mitrovica; Author's interview with Besa Shahini, 2016, Prishtina; Author's interview with civil society member in Northern Kosovo 2016; Author's interview with Shpend Limoni, 2016, Prishtina; Author's interview with Vladan Jacimović, 2016, Prishtina; Author's interview with Pavle Dimitrijević, 2016, Belgrade; Author's interview with Valdete Idrizi, 2016, Prishtina.
- 3 Author's interview with Valdete Idrizi, 2016, Prishtina
- 4 Author's interviews with member of civil society in North Kosovo, 2016, and with political analyst in North Kosovo, 2016. The interviewees chose to remain anonymous.
- 5 The interviewees chose to remain anonymous.
- 6 Author's interview with Milica Andrić, 2016, Kosovska Mitrovica.
- 7 Author's interview with Valdete Idrizi, 2016, Prishtina.
- 8 Author's interview with political analyst in North Kosovo, 2016. The interviewees chose to remain anonymous.
- 9 Author's interview with Shpend Emini, 2016, Prishtina.
- 10 Author's interview with Valdete Idrizi, 2016, Prishtina; Author's interview with Ljubiša Mijačić, 2016, Kosovska Mitrovica; Author's interview with Milica Andrić, 2016, Kosovska Mitrovica.
- 11 Author's interview with Arbana Xharra, 2016, Prishtina.
- 12 Author's interview with Besa Shahini, 2016, Prishtina.
- 13 Author's interview with Trim Kabashi, 2016, Prishtina; Author's interview with Shpend Limoni, 2016, Prishtina.
- 14 Author's interview with Sanja Sovrlić. 2016, Kosovska Mitrovica.
- 15 Author's interview with member of civil society in North Kosovo, 2016. The interviewee chose to remain anonymous.
- 16 Author's interview with member of civil society in North Kosovo, 2016. The interviewee chose to remain anonymous.
- 17 Author's interview with Sanja Sovrlić. 2016, Kosovska Mitrovica.
- 18 Author's interview with Ljubiša Mijačić, 2016, Kosovska Mitrovica.
- 19 Author's interview with Ljubiša Mijačić, 2016, Kosovska Mitrovica; Author's interview with member of civil society in North Kosovo, 2016. The interviewee chose to remain anonymous.
- 20 Author's interview with Valdete Idrizi, 2016, Prishtina.
- 21 Author's interview with Trim Kabashi, 2016, Prishtina.
- 22 Author's interview with Valdete Idrizi, 2016, Prishtina.



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## **PART IV:**

# **Social Relations and the Challenge of Reconciliation**





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# Dealing with the past and the process of reconciliation in Kosovo

**Atdhe Hetemi**

## **Introduction**

Kosovo society remains deeply affected and divided when it comes to the understanding and interpreting its recent past. The movement for an independent Kosovo escalated into war during the late 1990s, resulting in numerous casualties, missing persons, political prisoners, victims of sexual violence, war crimes, and violations of international law.<sup>1</sup> For more than a decade, Serbs from Serbia and Kosovo alike, including those who supported Belgrade's policies towards Kosovo, had the power to perpetrate violence in Kosovo. The Kumanovo agreement, which established the International Security Force for Kosovo was on 9 June 1999.<sup>2</sup> However, the post-war period was dominated by chaos, and Albanians were involved in retaliation acts. The Ahtisaari Plan, which was drafted in the run-up to Kosovo's declaration of independence, requires that Kosovo deals with the past and addresses the legacies of human rights abuses.<sup>3</sup> This obligation, along with the entire Comprehensive Proposal for the Kosovo Status Settlement, was incorporated into the Kosovo Constitution, upon declaration of independence of Kosovo on 17 of February 2008.<sup>4</sup> However, despite continuous pressures from the Civil Society Organizations (CSO) and international community, key executive, legislative and judiciary institutions in Kosovo have not made any convincing attempt to initiate a comprehensive process of dealing with the past. Due to the lack of serious institutional engagement in the implementation of existing legal norms and frameworks, the majority of citizens declared no trust in the Kosovo Government mechanisms for addressing appropriately "dealing with the past" concerns.

The purpose of this paper is to determine if the lack of proper institutional engagement hampered the reconciliation process in Kosovo. However, being aware that there are also other factors which cause blockades for sustainable social acceptance, this paper aims to set a baseline for further exploration of other dynamics that hamper the reconciliation process in Kosovo. Using Public Pulse<sup>5</sup> data, this paper aims to check whether the government's lack of serious engagement to deal with the past caused low social acceptance or social exclusion among communities living in Kosovo. From this paper, among others, it is also understood how important it is for Kosovo people find out the truth about all war crimes, regardless of the ethnicity of victims and perpetrators. Examining opinions about whether or not members of their ethnicities have committed war crimes, etc. is also important.

In what follows the paper provides explanations on the methodological approach used as well as about concepts and current state of affairs related to dealing with the past in Kosovo. Subsequently, the paper offers survey results and analysis associated to dealing with the past in Kosovo.

## Methodology

The present study employs qualitative and quantitative research methodologies which consist of a combination of different sources on this topic, as well as expert interviews conducted with activists working in the field. The main sources of empirical research include a desk review of literature and Kosovo Government documents as well as materials taken from specialized NGOs. In addition, expert interviews were conducted with representatives of organizations working in the field, whereas for quantitative research, findings from the Public Pulse surveys were used. Through a quantitative research methodology, Public Pulse measures perceptions of Kosovo Albanians (K-Albanians) and Kosovo Serbs (K-Serbs) about interethnic relations in Kosovo, in addition to a wide array of topics. The data from the survey conducted during October 2016 were compared with the data collected with similar research methodology since 2005. The surveys are representative of the adult population (18+). The breakdown of the population by municipalities is based on the 2011 population census, broken down by municipality and type of residence (urban and rural). Exclusions include people in hospitals, prisons, military facilities and similar. The survey employs multi-staged random probability sampling. The sample is representative of households in Kosovo. The universe is divided into three sub-sets: a) Albanian sub-set, 890 effective interviews, b) Serb sub-set, 200 effective interviews, and c) Non-Serb minority sub-set (*Turkish, Bosnian, Gorani, Roma, Ashkali, and Egyptian*), 200 effective interviews. Although the Public Pulse surveys oversample minorities in Kosovo (*K-Serbs, K-Others*) in order to be able to disaggregate data by ethnicity, when numbers are calculated for totals the data are weighted by actual population figures.<sup>6</sup> The sample is stratified by region and the residential profile of each region for the Kosovo Albanian population (*Prishtina, Mitrovica, Prizren, Gjakova, Gjilan, Peja and Ferizaj*), as well as non-Serb minorities living in the same localities. As far as the Kosovo Serb population is concerned, the sample is stratified by region and residential profile of each region (*Northern, Central, Southern and South-eastern*). Regions are defined by geographic borders. Each sampling point in the Albanian sub-set is designed to have 8 households irrespective of the type of residence (*urban or rural*),<sup>7</sup> 112 sampling points in total. In the Serb sub-set, each sampling point was designed to have 5 households irrespec-

tive of the type of residence, 42 sampling points. Finally, in the non-Serb minority sub-set, each sampling point was designed to have 10 households, irrespective of the type of residence, total 20 sampling points. The residential split is 40% urban vs. 60% rural.<sup>8</sup> Within each region, the sampling points are selected executing a step over the list of settlements ordered per their size of population, the one with the highest number of dwellers being on top of the list and each sampling point is given a starting point. Selection of household is based on the 'random route' method. Selection of a respondent is carried out using the 'next birthday' method, for following through face to face interview.<sup>9</sup>

## **The concept of Dealing with the Past**

'Dealing with the past' is a relatively new concept introduced by the international human rights movement. At first it referred to the judicial process of addressing human rights violations committed by dictatorial regimes in the course of democratic transition. Later, the term also came to be used for dealing with war crimes and massive human rights abuses committed in violent conflicts (Kritz 1995; Minow 1998, 2002; Teitel 2000).<sup>10</sup> The concept has been widely discussed by peacebuilding agencies engaged in war-torn societies during the past two decades, and along the way, it has gradually extended its meaning. Today it covers the establishment of tribunals, truth commissions, lustration of state administrations, settlement on reparations, and also political and societal initiatives devoted to fact-finding, reconciliation and cultures of remembrance (Fischer and Petrović-Ziemer 2013, 20). Following the recent wars in the Balkans, in Kosovo as well, the local actors are urged and supported to establish legal norms and frameworks and other mechanisms responsible for dealing with the violent past. This process is often considered as a base for reconciliation and sustainable peace-building.

The literature on former Yugoslavia highlights the need to deal with the past envisaging this process as an objective for reconciliation (Di Leillo 2012). The dealing with the past process is supposed to be implemented through judicial and non-judicial measures following the steps of transitional justice. However, beside continuous pressures and professional support by the CSOs and international community, Kosovo executive, legislative and judicial institutions did not make convincing attempts to initiate a comprehensive process of dealing with the past in Kosovo. Gordy also argues that political elites in Kosovo did not show commitment to deal with the past. According to him, such a process was considered as harmful for their interests and humiliating for ethnic identity (see Gordy 2013). As such, Kosovo did not regulate its transition from war to peace clearly or through mutual consensus, including how to deal with past crimes and how to provide truth and justice for the victims from all sides of the conflict (KIPRED 2008, 28).

On the other side, literature shows that, in South Africa for example, the truth and reconciliation process was explicitly based on the hypothesis that knowledge of the past will lead to acceptance, tolerance, and reconciliation in the future. James Gibson tested this hypothesis. One of his most important finding is that those who accept the "truth" about their society's past are more likely to hold reconciled attitudes. Gibson further argues that, to a considerable degree, reconciliation depends on inter-ethnic contacts. This evidence adds weight to the "contact hypothesis" investigated by western social scientists.<sup>11</sup> Ultimately, these findings show hope for

post-conflict countries to make successful democratic transitions, since racial and/or nationalistic attitudes seem not to be intransigent (Gibson 2004). Although literature on the theoretical and conceptual complexity of reconciliation is growing, scholars acknowledge the existence of a 'gap' in empirical research regarding various ways in which reconciliation is understood, contested, and given meaning in legal, social, and political debates in the former Yugoslavia (Touquet and Vermeersch 2016, 2). However, certain theories argue that a localized emancipatory peace can emerge should it be rooted in dialogic commitments of local and international actors and reformed state institutions (Visoka and Oliver 2016, 2). What remains under-researched in the case of Kosovo is whether or not the lack of institutional engagement in the implementation of existing legal norms and frameworks of dealing with the past is what caused the lack of communication and understanding among major ethnic groups in Kosovo. Moreover, did this contribute to further prejudices and low social acceptance between Albanians and Serbs, therefore hampering the establishment of stabilized and reconciled relationships?

## **Dealing with the past in Kosovo: the current state of affairs**

The first elements of dealing with the past in Kosovo were established after 10 June 1999, when the United Nations Security Council adopted Resolution 1244, authorizing international and civilian and military presence in Kosovo and effectively establishing the United Nations Interim Administration Mission in Kosovo (UNMIK). In 2000, UNMIK established a Victim Recovery and Identification Commission to assist in recovery, identification and disposition of mortal remains, the collection and maintenance of data related to remains, and coordination of exhumation and investigation activities with International Criminal Tribunal for the former Yugoslavia and competent judicial authorities.<sup>12</sup> In June 2002, the UNMIK Office of Missing Persons and Forensics (OMPF) and UNMIK Department of Justice, became the sole bodies responsible for issues surrounding missing persons. The double mandate of the OMPF included providing information about the fate of missing persons and providing a forensics system up to European standards in Kosovo. The OMPF tasks included identification of burial sites, and excavation, exhumation, autopsy, and identification of mortal remains. In 2008, OMPF was transferred from UNMIK to the EULEX Justice Component.<sup>13</sup> In 2003, a Memorandum of Understanding (MoU) between UNMIK and the International Commission on Missing Persons (ICMP) was signed in order to support the DNA identification system within Kosovo. This MoU still serves as the basis for support for the Department of Forensic Medicine.

In 2004, an internationally mediated dialogue between Prishtina and Belgrade on technical issues and the 'Working Group on persons unaccounted for in relation to the events in Kosovo between January 1998 and December 2000' was established within the framework of the Vienna Dialogue.<sup>14</sup> The Working Group held its first meeting in March 2005. The meetings were held between delegations from Kosovo (with UNMIK) and from Serbia, and were mediated by representatives from the International Committee of the Red Cross.<sup>15</sup> The primary mandate of the Working Group was to provide support to search for persons who went missing because of the war in Kosovo and to inform families as needed. Although, in theory, the Working Group continues to function as a dialogue forum between Kosovo and Serbia on the issue of missing persons, no real progress has been made regarding sharing sensitive information.<sup>16</sup> The political changes after Kosovo's declaration of independence have delayed the progress of the Working Group,

and, with it, the disclosure of the fate of the missing persons.<sup>17</sup>

Initiatives were undertaken by the Kosovo Provisional Institutions for Self-Government between 2000 and 2007.<sup>18</sup> These included disarmament, demobilization and reintegration of the Kosovo Liberation Army members and the establishment (and reform) of security, judicial and other governmental institutions. During this time, CSOs were actively involved in collecting war-related information and fact-finding in the field.

Negotiations with Serbia for Kosovo's independence concluded with the finalization of the Comprehensive Proposal for the Kosovo Status Settlement in March 2007<sup>19</sup> and the unilateral declaration of independence from Serbia by Kosovo on 17 February 2008.<sup>20</sup> The Comprehensive Proposal for the Kosovo Status Settlement included within the guiding principles for Kosovo independence, an obligation to undertake transitional justice initiatives to deal with the past, and promote reconciliation. Its text included the clause: "Clearly highlighting that Kosovo shall promote and fully respect a process of reconciliation among all its Communities and their members, through establishing a comprehensive and gender sensitive approach for dealing with its past, which shall include a broad range of transitional justice initiatives."<sup>21</sup>

In February 2008, the International Civilian Office (ICO) was established to oversee the implementation of the Comprehensive Proposal for the Kosovo Status Settlement (ICO, 2012). In 2008, the Government Commission on Missing Persons was established as an inter-institutional mechanism on missing persons issues. The Commission is made up of the Ministry of Foreign Affairs, the Ministry of Internal Affairs, the Ministry of Justice, the Department of Forensic Medicine, the Ministry of Local Government Administration, the Ministry for Kosovo Security Force, the Ministry of Labor and Social Welfare, and three representatives from the Missing Persons Families' Association. The 2011 Law on Missing Persons and Regulation No. 15/2012 define the mandate of the Commission as a governmental mechanism that reviews and informs families on the outcome of search requests, leads, supervises, coordinates, and harmonizes the activities of local and international institutions with regard to missing persons issues, and enlightens the fate of persons who went missing as a result of the 1998-1999 war, regardless of ethnicity, religion, military, or civil status.<sup>22</sup> The Law on Missing Persons guarantees the right of families to know the fate and whereabouts of family members missing as a consequence of the war in Kosovo, regulates the legal status of missing persons, and enables the creation of a Central Registry on Missing Persons (Law No. 04/L-023).

The Kosovo Ministry of Justice established the Institute for War Crimes Research, which began work 1 June 2011. The aim of the Institute is to collect, systematize, process, and publish data on crimes against peace, war crimes, crimes against humanity, and acts of genocide committed in Kosovo during 1998 and 1999. The Institute is mandated to analyze and verify crimes and other relevant events in order to develop a database, notes and cases for criminal prosecution that may then be utilized by other specialized institutions. The Institute has been criticized for its inactivity and lack of coordination with other organizations, which has been attributed to its lack of funding and human resources.<sup>23</sup> It has begun work to identify and investigate locations where war crimes occurred in Kosovo. Even though the current operational status of the Institute is unclear, so far they have published books on missing persons (lists of missing from 1<sup>st</sup> January 1998 until 16<sup>th</sup> June 1999) as well as the narratives of 100 killed civilians during the war in Kosovo. In addition, the Assembly of the Republic of Kosovo has a Parliamentary Com-



mission on Human Rights, Gender Equality, Missing Persons and Petitions. The mandate of this Commission is to organize public discussions, supervise the work of governmental institutions engaged on the issue of missing persons, engage the issue of missing persons in the Assembly, and encourage the issue of missing persons to become part of the work and agenda of the Assembly.

In 2012, the obligation to undertake transitional justice initiatives to deal with the past and promote reconciliation was operationalized through a commitment to work with the Government to adopt a strategy supporting reconciliation and dealing with the past (ICO 2012, 112). A series of workshops were held with government staff and CSOs in early 2012, followed by a one day international conference on transitional justice, on 22 May 2012. At the international conference, the Minister of Justice announced the intention to form an Inter-Ministerial Working Group on Dealing with the Past and Reconciliation (IMWG DwPR). On 4 June 2012, the IMWG DwPR<sup>24</sup> was formalized by government decision (Decision No. 03/77), which outlined the composition, purpose, mandate and standards of the group. Its main purpose was to draft a “transitional justice strategy.” The decision was amended in April 2014 to add a second deputy chair position to the group structure to be fulfilled by a CSO representative (the chair and first deputy chair being government representatives), and amending the reporting method, giving charge to the government with a copy to the European Union (EU) (Decision No. 06/181).

In October 2014, Decision 03/77 was further amended to add four institutions of the Office of the Prime Minister to the group and to clarify the group’s ability to receive financial support from the government and donors to implement activities (Decision No. 04/200). The rules of procedure and work plan of the IMWG DwPR were approved by the Government in October 2014.<sup>25</sup> However, years after its initiation, the IMWG DwPR is at a standstill and can hardly manage to move forward in organizing public consultations with stakeholders, including victims of war and communities as initially planned (NPISAA 2015). In October 2015, the Government of Kosovo signed the Stabilization and Association Agreement (SAA) with the European Union (EU).<sup>26</sup> In December of the same year, the Government of Kosovo approved its National Action Plan for the Implementation of the Stabilization and Association Agreement (NAPISAA). Referencing the General Principles of the SAA, obligations for approval of a transitional justice strategy is included within the NAPISAA.<sup>27</sup>

A significant role in processes of dealing with the past in Kosovo is also played by CSOs, who have been heavily involved in the search for missing persons. The groups include the Missing Persons Families’ Association, the Kosovo Red Cross, the Council for the Protection of Human Rights and Freedoms, and the Humanitarian Law Center. In 2001, over 20 associations joined together to create the Coordinating Council of the Association of Families of Missing Persons in Kosovo. CSOs have been involved in the documentation of mass violations of human rights, including: the Council for the Defense of Human Rights and Freedoms, the Humanitarian Law Center, the Center for the Protection of Women and Children, the Humanitarian and Charitable Society ‘Mother Teresa,’ and the Kosovo Rehabilitation Center for Torture Victims. Beside this, regional initiatives were developed to support publicizing facts about war crimes and other serious violations of human rights committed in the territory of former Yugoslavia from 1991-2001.<sup>28</sup> RECOM is a regional commission of nongovernmental organizations which began at the First Regional Forum for Transitional Justice in May 2006 as a debate on the instruments of truth-telling and for the disclosure of truth about the past.<sup>29</sup> At the Forum, NGO representatives



and associations of families of missing persons and victims from the former Yugoslav countries voted for the creation of a regional body for the establishment of facts about war crimes. In 2013, presidents from the former Yugoslavian countries appointed envoys to RECOM. The Fourth President of Kosovo, Atifete Jahjaga, appointed her legal as the envoy from Kosovo. The envoys' mandate ended in 2014 after four meetings were held and their proposed Amendments to the RECOM Statute Proposal were adopted by the RECOM Coalition. For the purposes of addressing dealing with the past issues, Kosovo institutions were also supported by international organizations.

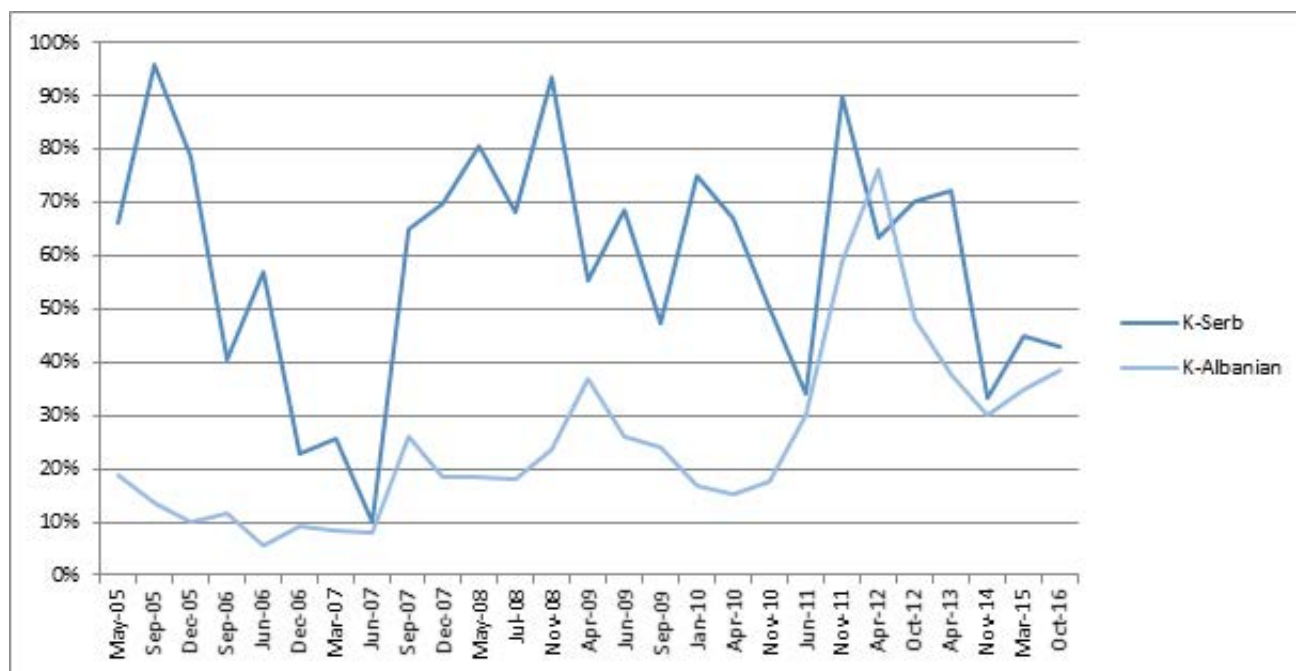
Approval of the national strategy to implement the SAA with the EU, which included a component on dealing with the past, was originally scheduled to be completed in the third quarter of 2016. However, upon clarification by the Ministry of European Integration, the group was advised that the expected timeframe for the approval was the first quarter of 2017.<sup>30</sup> The European Union office in Kosovo reports on transitional justice progress in its annual reports (EU Progress Report 2016, 31). In December 2013, the Office of the Prime Minister of Kosovo and the United Nations Development Programme in Kosovo (UNDP) entered into a cooperation agreement to support the IMWG DwPR. In June 2014, together with Office of the United Nations High Commissioner for Human Rights (OHCHR), UNDP established the Support to Transitional Justice in Kosovo (STJK) project. UN Women and the International Organization for Migration (IOM) joined the project towards the end of 2014, bringing the support of the United Nations Kosovo Team (UNKT) to the project.<sup>31</sup>

## Results and analysis

Research findings show that – depending on the engagement of the Kosovo Institutions – the perceptions of both communities about inter-ethnic relations in Kosovo have changed over time. Bekim Blakaj, Executive Director at Humanitarian Law Center Kosovo,<sup>32</sup> points out that the governmental standstill in “dealing with the past” processes reflected the inter-ethnic relations, respectively the entire process of reconciliation in Kosovo. While in 2005 about 95 percent of K-Serbs believed that interethnic relations in Kosovo were tense and not improving, in June 2007 this percentage decreased to about 10 percent. Similarly, when analysing perceptions of K-Albanians, it is observed that while in 2005 only 19 percent of K-Albanians thought that relations with K-Serbs continue to be tense and not improving, in June 2007 this percentage decreased to 5.5 percent. It is assumed that changes in perceptions of Kosovo citizens occurred in the same line with the initiatives undertaken by the Kosovo Institutions toward addressing the “dealing with the past” issues. This is also visible in 2011, when the percentage of K-Serbs considering the inter-relations as getting tense and not improving raised to 90 percent, but the Government's approvals of the IMWG DwPR work plans in November 2014 led to decrease of this percentage to 33 percent. Similarly, the percentage of K-Albanians considering inter-ethnic relations tense and not improving has seen significant decline from April 2012 (76 percent) to November 2014 (30 percent). During the interview, Blakaj, who is also a member of the IMWG DwPR, expressed his doubts that the work of this group could have impacted the perceptions of citizens, arguing that broader society barely knows about the existence of the IMWG DwPR.<sup>33</sup> However, it is assumed that beside political developments on the ground, the public opinion was also affected by some international and local court verdicts against those involved in war crimes.

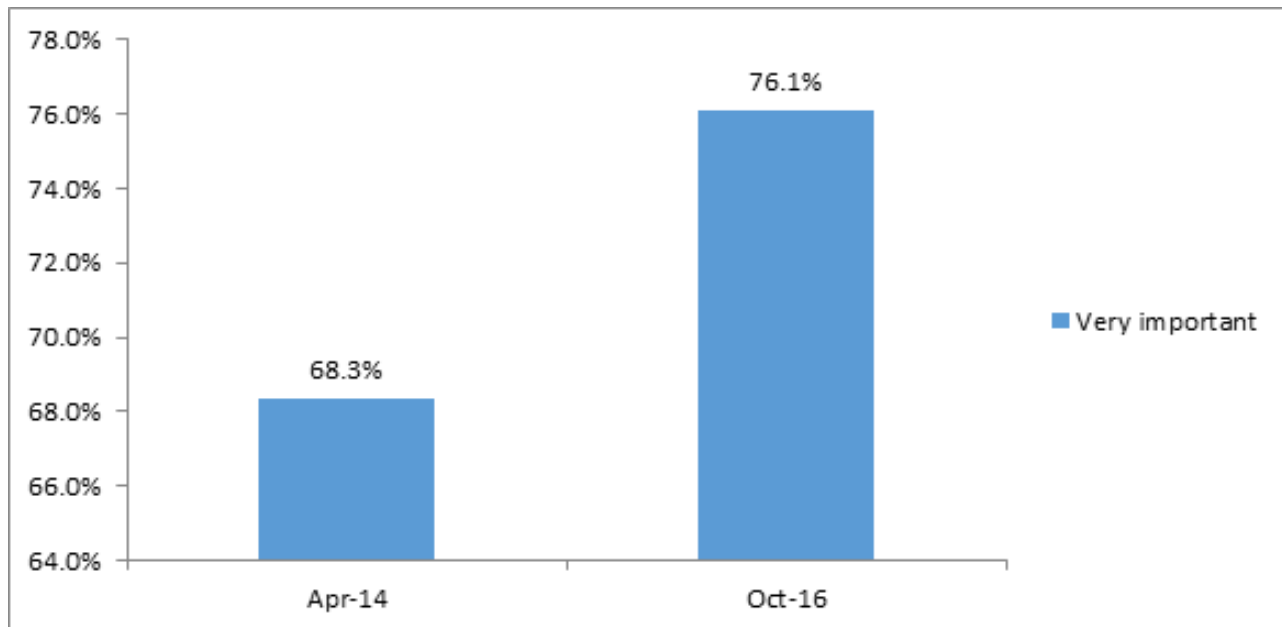
Although the percentage of K-Albanian concerned about the rise of the inter-ethnic tensions have increased compared to the K-Serb perceptions in this regard, during the last decade the percentage of K-Serbs who believed that the inter-ethnic relations in Kosovo are tense and not improving was constantly higher, and remains so to this day. (Figure 1).

**Figure 1: Trend of respondents considering that interethnic relations continue to be tense and not improving**



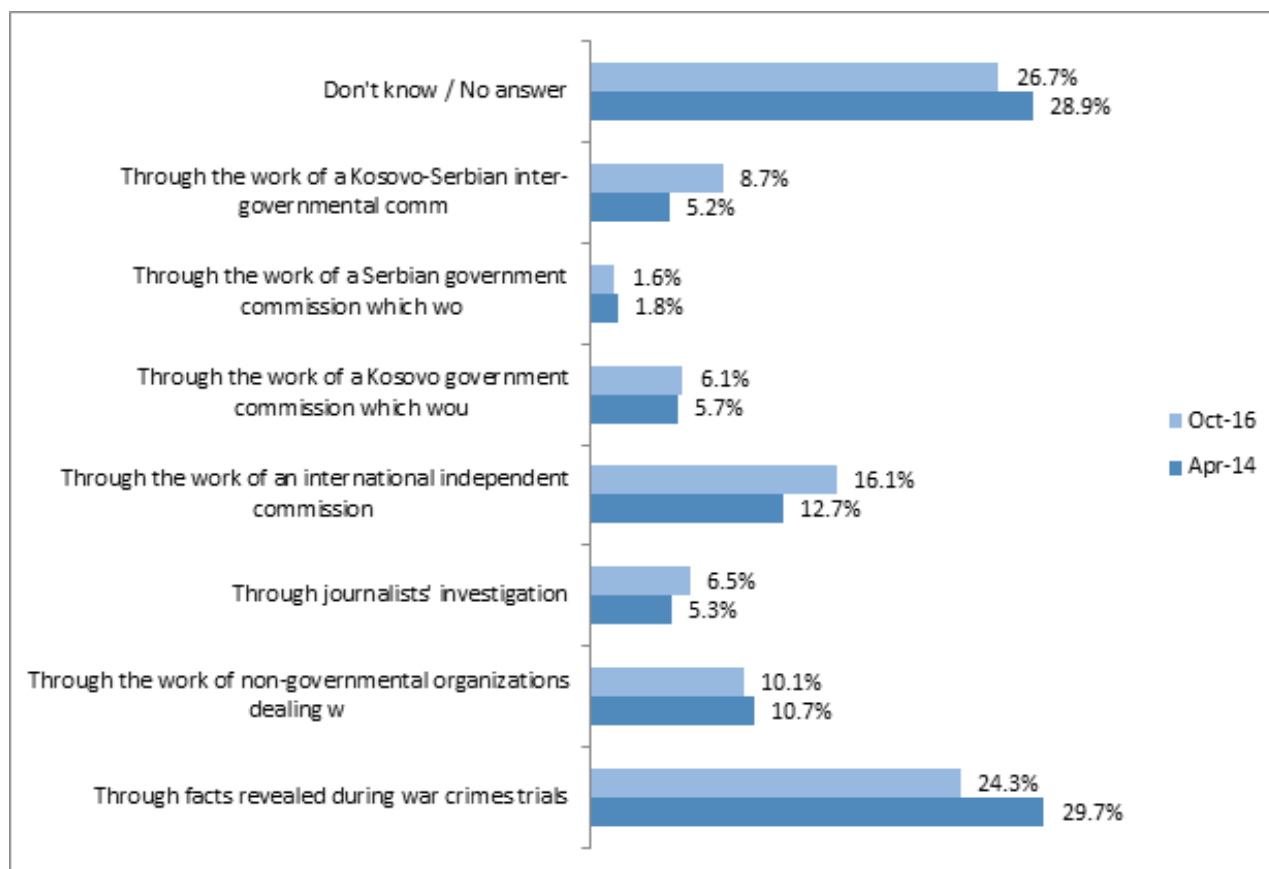
Dealing with past comprehensively is a challenging endeavor for any society facing a recent history marked by serious violations of human rights. However, the majority of Kosovans think that dealing with the past is important. In October 2016, around 76 percent of Kosovans judged the need to determine the truth about all war crimes committed in the past, regardless of the ethnicity of victims and perpetrators, as either 'very important' or 'important to some extent'. Comparing the October 2016 data with those collected in April 2014 shows that the percentage of Kosovans who consider determining the truth about war crimes, as "important" has risen about eighteen percentage points (Figure 2).

**Figure 2. In on your opinion, how important is for Kosovo people to deal with finding the truth about all war crimes committed in the past, regardless of the ethnicity of victims and perpetrators?**



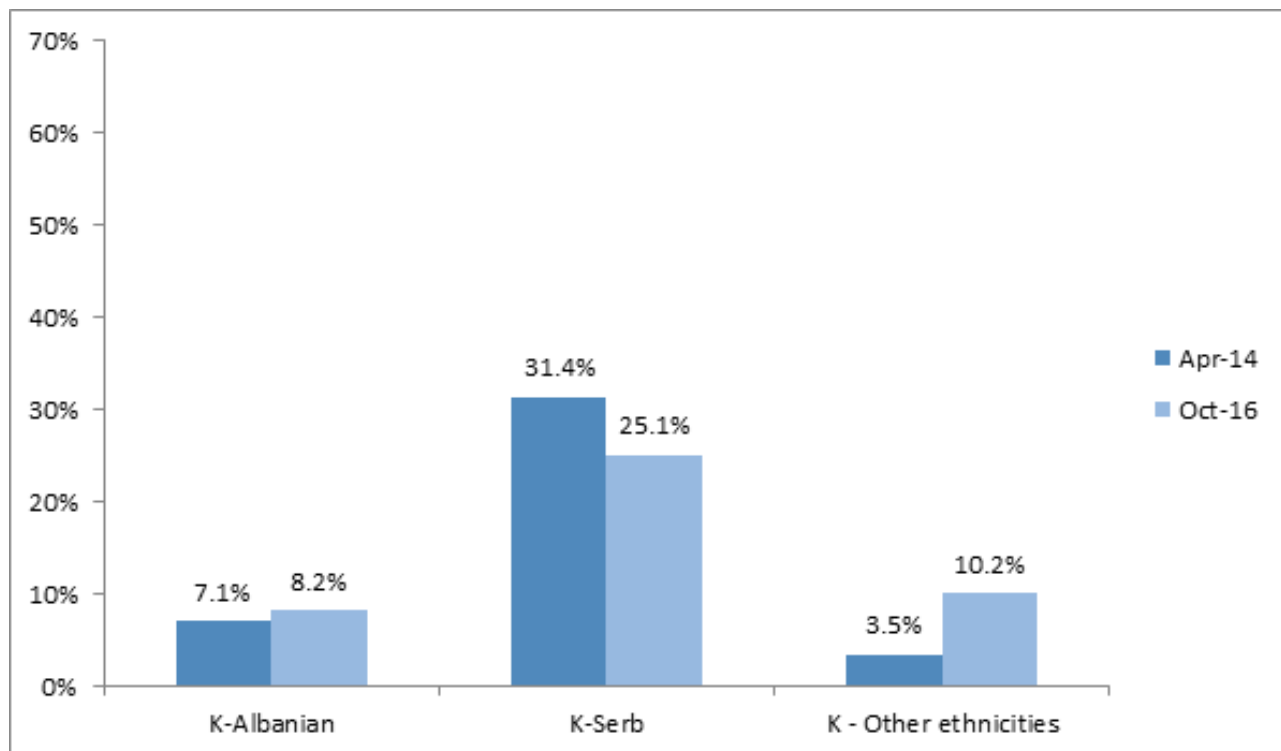
Respondents also shared their opinions about the most appropriate ways to reveal the facts of crimes committed during the war in Kosovo. The percentage of those that think it should be done through facts revealed during war crime trials has been increased from 24 percent as recorded in April 2014 to 30 percent in October 2016. Another 16 percent of Kosovans consider that the most appropriate way to reveal the facts for war crimes is through the work of an international independent commission, which would investigate past events. About 10 percent of respondents declared that it should be done through the work of NGOs dealing with war crimes investigations. However, almost one third of Kosovans (29 percent) did not know or did not have any answers about the most appropriate way to reveal the facts for crimes committed during the armed conflict in Kosovo (*Figure 3*). Disaggregating the data on an ethnic basis shows significant differences in the opinions of K-Albanians and K-Serbs on this matter. While one quarter of K-Albanians (25 percent) consider that the most appropriate way to reveal the facts for crimes committed during the war in Kosovo would be through war crime trials, majority of K-Serbs (20 percent) consider that those facts would be most appropriately revealed through the work of a Serbian Government commission. Only about 6 percent of K-Albanians and about 2 percent of K-Serbs would consider the Kosovo Government's commission an appropriate mechanism to do that. This shows that due to the government's lack of readiness to address this matter properly and efficiently, Kosovo citizens lost trust in their government. Also, significant differences in opinions of communities in Kosovo show the existence of prejudices and the creation of social distancing between communities.

**Figure 3. In your opinion, what is the most appropriate way to reveal the facts for crimes committed during the war in Kosovo?**



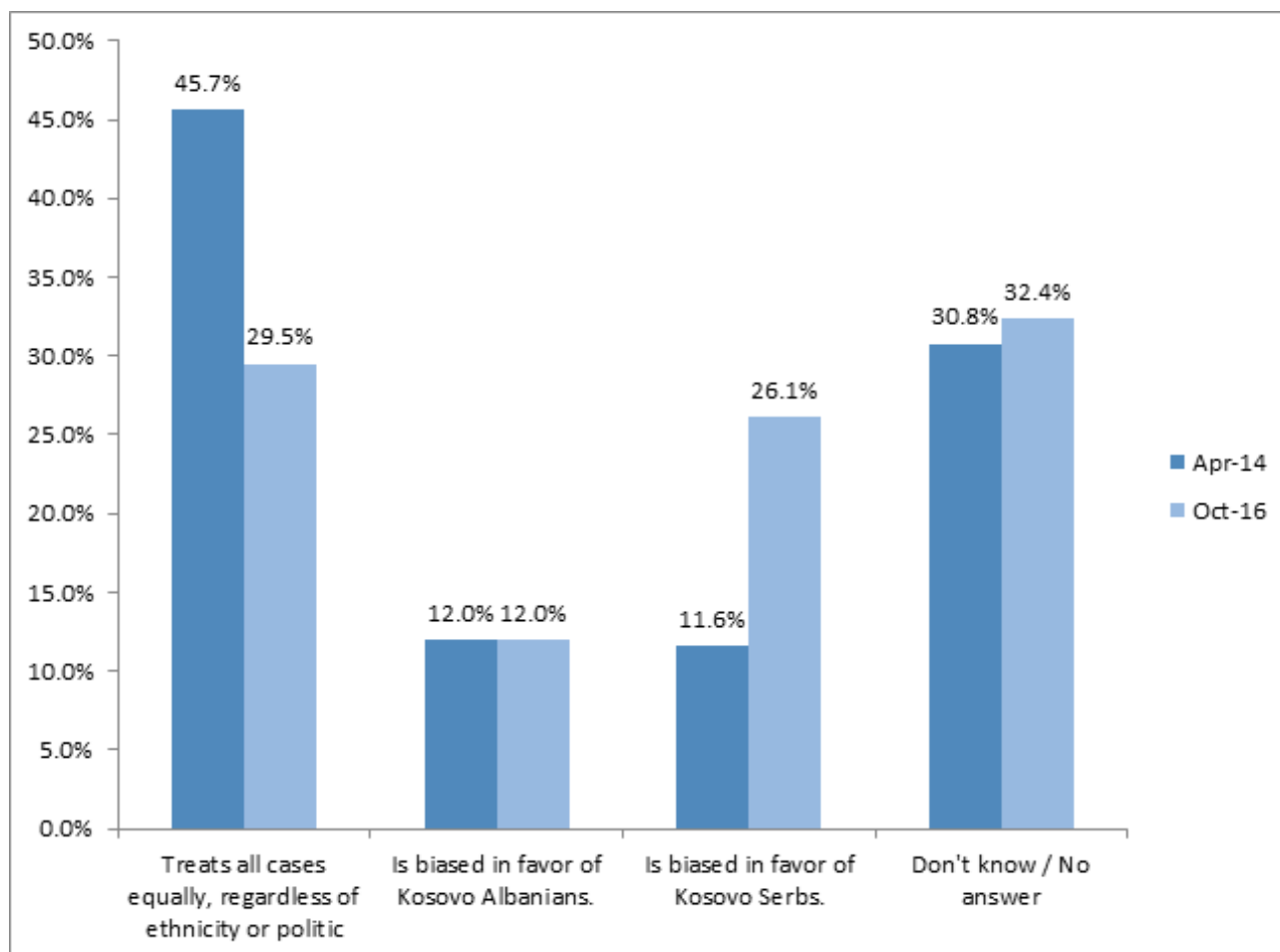
The majority of Kosovans declared that members of their communities did not commit war crimes. Disaggregation of this data on an ethnic basis shows that only 8 percent of K-Albanians responded affirmatively when asked whether members of their communities committed war crimes (*Figure 4*). Correlation analysis indicates that K-Albanians who accept that members of their community committed war crimes are the ones who consider that the democratic processes in Kosovo are not going in the right direction and expressed readiness to protest for political and economic reasons. On the other side, 25 percent of K-Serbs (as compared to 31 percent of them in April 2014) believe that members of their community committed war crimes (*Figure 4*). For K-Serbs, there is a significant positive correlation between the years of education, residence and affirmation that members of their communities committed war crimes. In other words, the K-Serbs who consider that members of their communities committed war crimes are from urban areas and were educated for more years. As far as K-others are concerned, the October 2016 data shows that number of those considering that members of their ethnicity committed war crimes increased by about seven percentage points as compared to April 2014 (*Figure 4*).

**Figure 4. Do you think that members of your ethnicity have committed war crimes, or not (disaggregated by ethnicities)?**



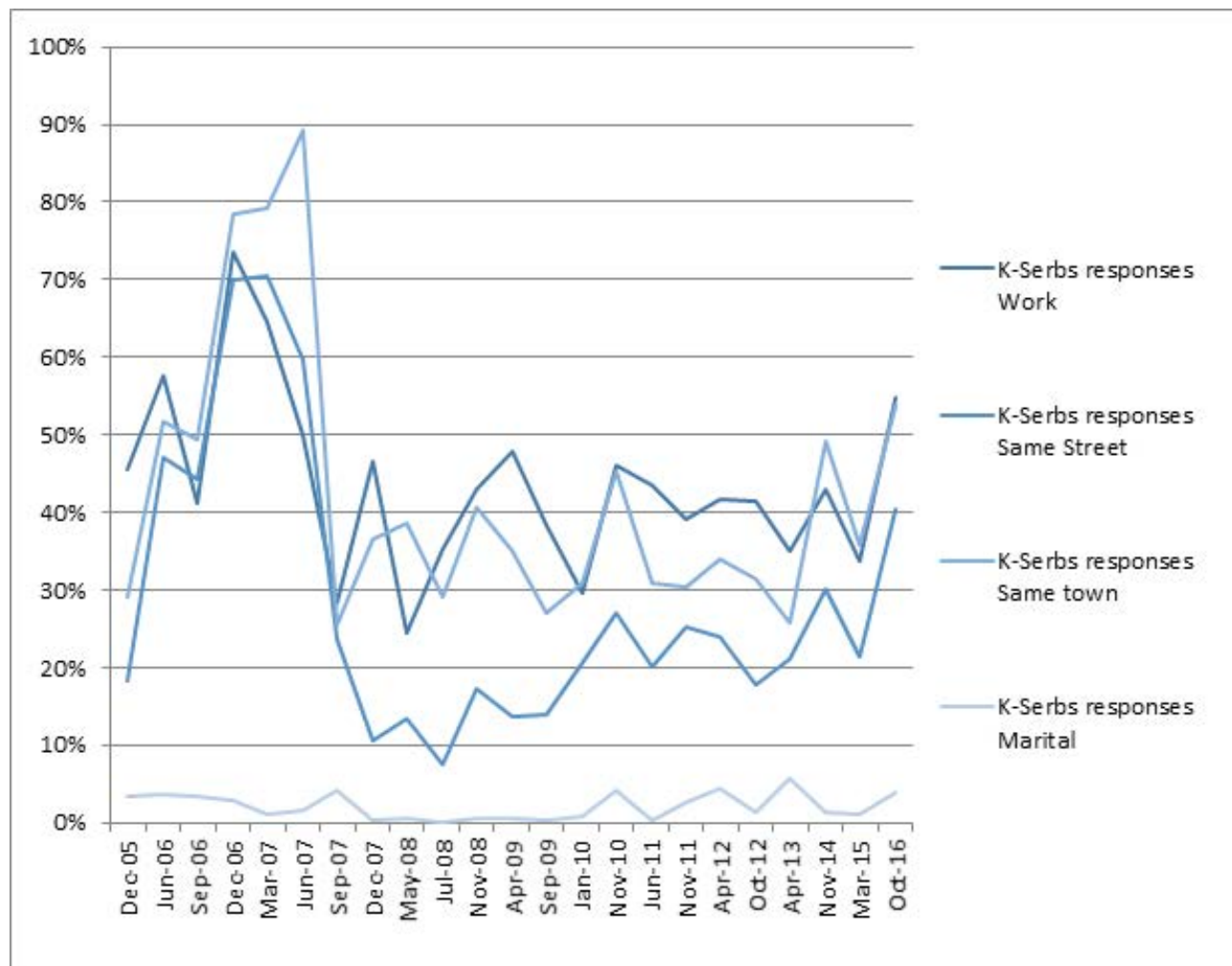
Given that in October 2016 only 21 percent of respondents declared that they trust Kosovo's key executive, legislative, and judicial institutions, the citizens were asked their opinions about the fairness of prosecution of war crimes in Kosovo. The findings reveal that the percentage of those who believe that all perpetrators, regardless of ethnicity and political background, have been treated equally during prosecution has decreased to 29.5 percent from 46 percent in April 2014. When October 2016 findings were analysed on by ethnicity, it was shown that while only 28 percent of K-Albanians think that prosecution of war crimes favours K-Serbs, 80 percent of K-Serbs think prosecution of war crimes favours K-Albanians (*Figure 5*). Again, these significant differences on similar issues, in the opinions of communities in Kosovo, confirm the presence of prejudices and social distancing among communities living in Kosovo.

**Figure 5. Which of the following statements is closest to your view: Prosecution of war crimes in Kosovo**



Despite shifts in perceptions of inter-ethnic relations throughout years, the statistical trend analysis does not show the same changes – particularly from 2007 – related to K-Serbs’ readiness to work and live in the same town with K-Albanians. October 2016 findings reveal that the percentage of K-Serbs who are ready to work in the same place – as represented by the blue trajectory - the and live in the same town or street – as represented by the purple and orange trajectories - with K-Albanians is the highest since 2008. Nevertheless, these trends show that regardless of the institutional initiatives in ‘dealing with the past’ processes, no significant changes have been noticed in the readiness of K-Serbs to marry K-Albanians since 2005, this trend is represented by the yellow trajectory (*Figure 6*).

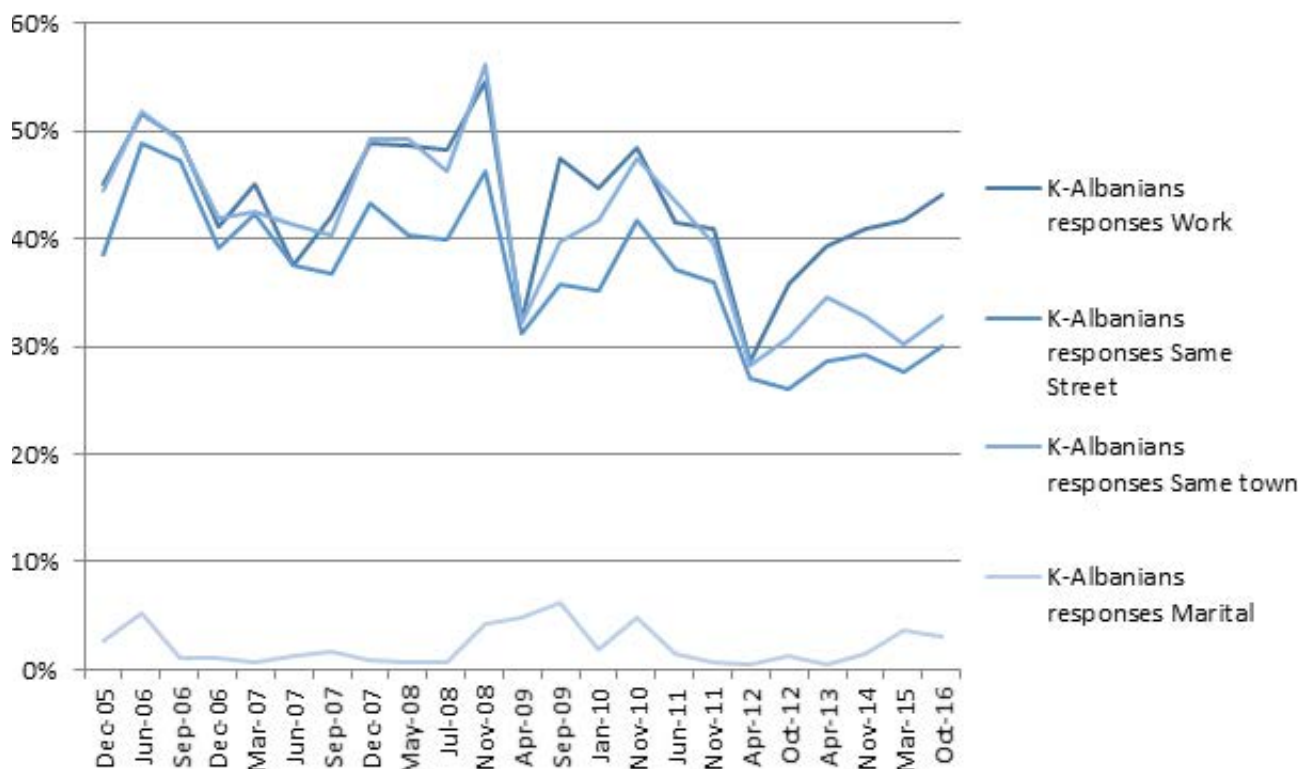
**Figure 6. K-Serbs willing to live and work with K-Albanians**



It is important to note that contrary to K-Serbs' increased readiness to work and live in the same towns or streets with K-Albanians, the opposite is true for K-Albanians. The findings reveal that K-Albanians' readiness to work in the same place – as represented by the blue trajectory – and, live in the same streets or towns – as represented by the orange and purple trajectories – with K-Serbs decreased compared to 2008. Similarly, no significant changes were noticed in the readiness of K-Albanians to marry K-Serbs since 2005, this trend is represented by the yellow trajectory (*Figure 7*).

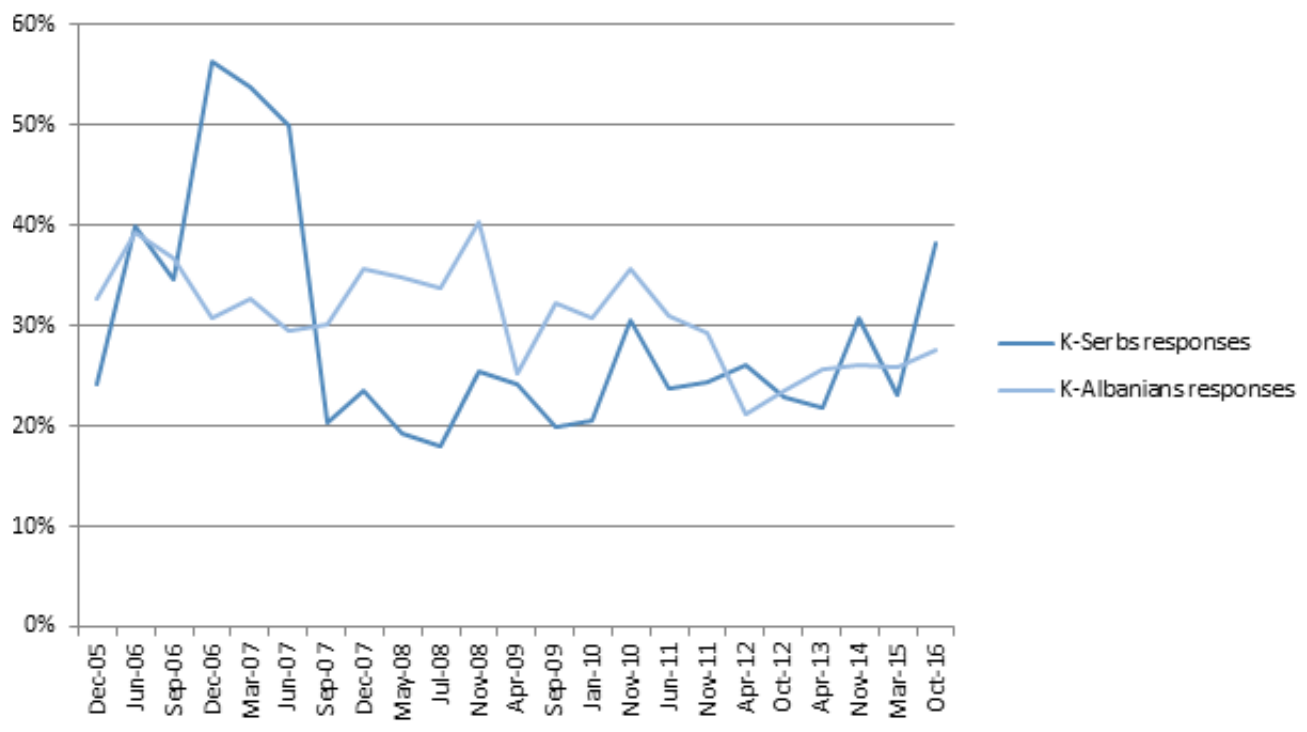


**Figure 7. K-Albanians willing to live and work with K-Serbs**



Combining the responses of K-Serbs and K-Albanians expressing their respective attitudes towards living and working together or marrying one another, social acceptance measures were calculated for both ethnic groups. The interethnic social acceptance trends indicate that there has been an increase of K-Serbs' social acceptance toward K-Albanians between 2008 and 2016. On the other hand, during the same period of time, there has been a decrease of K-Albanians' social acceptance toward K-Serbs (*Figure 8*). Statistically significant correlations reveal that K-Albanians who believe that inter-ethnic relations are not improving and will continue to be tense have lower social acceptance for K-Serbs as compared to those which think that inter-ethnic relations could be improved. The same analysis was conducted for K-Serb respondents. The results show negative correlations, as in the case of K-Albanians. However, this correlation is not that significant statistically. K-Serbs who consider that members of their communities committed war crimes possess a higher social acceptance index, which is a statistically significant correlation. The findings also show that there is a significant positive correlation between those considering the prosecution of war crimes as transparent and social acceptance index. Meaning, K-Albanians which consider that the process of prosecution of war crimes in Kosovo treats all cases equally, possess a higher social acceptance index.

**Figure 8: Interethnic social acceptance trends**



## Conclusions

This paper is a compilation of research findings and a summary of the main initiatives undertaken by Kosovo institutions in line with Kosovo's obligation to deal with the past and promote reconciliation. Dealing with the past processes do not happen in a vacuum, and in Kosovo's formative years, there have been numerous political and other processes that have intersected with transitional justice initiatives. However, this paper does not take stock of these intersecting processes, rather it is focused on - already raised concerns<sup>34</sup> - respectively, testing whether the institutional lack of serious commitment to deal with the past is preventing inter-ethnic reconciliation or contributing to keeping the relations tense in Kosovo. The findings confirm that 18 years after the Kosovo's *de facto* separation from Former Yugoslavia and Serbia, the negative stereotypes among Albanians and Serbs living in the Kosovo are still visible. The article shows that while legal norms and frameworks are in place, Kosovo institutions failed to guarantee their implementation in practice. From the analysis, it is also demonstrated how institutional standstills in the implementation of legal norms and frameworks for properly addressing 'dealing with the past' in Kosovo are reflected in the perceptions of citizens regarding inter-ethnic relations and social acceptance. Thus, the institutional obstacles affected reconciliation between communities in Kosovo. It is assumed that changes in perceptions of Kosovo citizens occurred in the same line with the initiatives undertaken by the Kosovo Institutions toward addressing the 'dealing with the past' issues. However, besides significant differences in opinions of Albanians and Serbs in Kosovo - which reveal the existence of prejudices and the

social distancing among communities - all of them considered dealing with past crimes to be an important matter and declared no trust in the Kosovo Government mechanisms for appropriately prosecuting war crimes.

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Siobhan Hobbs - Gender Specialist at UN Woman, Interview to author, 11 October 2016, Prishtina

Vjosa Munoglu - Project Manager for Support to Transitional Justice in Kosovo (STJK) Interview to author, 11 October 2016, Prishtina

## (Endnotes)

- 1 Estimated numbers of casualties, political prisoners, victims of sexual violence and displaced persons vary by source.
- 2 The war ended with the Kumanovo Treaty, with Yugoslav and Serb forces agreeing to withdraw from Kosovo to make way for an international presence.
- 3 Article 2.5 of the Comprehensive Proposal for the Kosovo Status Settlement (S/2007/168/Add.1).
- 4 The Constitution of the Republic of Kosovo, Art. 143: 1. All authorities in the Republic of Kosovo shall abide by all of the Republic of Kosovo's obligations under the Comprehensive Proposal for the Kosovo Status Settlement dated 26 March 2007. They shall take all necessary actions for their implementation. 2. The provisions of the Comprehensive Proposal for the Kosovo Status Settlement dated 26 March 2007 shall take precedence over all other legal provisions in Kosovo. 3. The Constitution, laws and other legal acts of the Republic of Kosovo shall be interpreted in compliance with the Comprehensive Proposal for the Kosovo Status Settlement dated 26 March 2007. If there are inconsistencies between the provisions of this Constitution, laws or other legal acts of the Republic of Kosovo and the provisions of the said Settlement, the latter shall prevail.
- 5 Public Pulse is a decade-long research project implemented by United Nations Development Program in Kosovo. Since 2009, the Public Pulse is managed and administrated by the author of this article. The results are based on an opinion poll sample that surveyed 1,306 citizens of Kosovo. Between 2002 and 2010, surveys were conducted on quarterly basis. Since 2010, the Public Pulse survey is being conducted on a biannual basis.
- 6 Based on the Kosovo Census 2011 and Kosovo Statistical Agency Population Estimates.
- 7 Urban and rural settlements are defined by administrative borders set by each municipality, i.e. neighborhoods of a city/town are clearly defined as belonging to the urban area and villages and rural settlements are also clearly defined belonging to the rural area.
- 8 Based on the Kosovo Census 2011 and Kosovo Statistical Agency Population Estimates.
- 9 Detailed information on the Data Collection Methodology are quoted from the Technical Report for Public Pulse Survey in Kosovo.
- 10 Cited after - Fischer and Petrović-Ziemer 2013
- 11 Social scientists define contact hypothesis as one of the most productive ways for improving the relations among groups affected by the conflict. This hypothesis is developed by Gordon W. Allport, and is also known as Intergroup Contact Theory.
- 12 Regulation No. 2000/28 On the Victim Recovery and Identification Commission: [http://www.unmikonline.org/regulations/2000/re2000\\_28.htm](http://www.unmikonline.org/regulations/2000/re2000_28.htm) [Last accessed on 01 December 2016]
- 13 In 2010, the Office of Missing Persons and Forensics was renamed the Department of Forensic Medicine. The Department of Forensic Medicine maintained the mandate to continue missing persons operations and the delivery of forensic medicine, and was given new competences including further developing local forensic capacities.
- 14 The Vienna Dialogue was launched by the EU in October 2003. The dialogue involved discussions between Kosovo and Serbia on missing persons, returns of displaced persons, energy, transport, and telecommunications. The President of Kosovo and the Assembly Speaker of Kosovo both took part in the launch of the dialogue. The dialogue was meant to open lines of communication between Kosovo and Serbia before the beginning of the final status process. The Working Group on Missing Persons met for the first time in February 2004. However, the Dialogue was suspended in March 2004 after violence erupted in Kosovo.

15 ICRC Press Release, Kosovo: First meeting of working group on missing persons 11 March 2004, available at: <https://www.icrc.org/eng/resources/documents/misc/69umel.htm> [Last accessed on 01 December 2016]; United Nations, International Convention for the Protection of All Persons from Enforced Disappearance, Committee on Enforced Disappearances Consideration of reports submitted by States parties under article 29, paragraph 1, of the Convention Reports of States parties due in 2013 Serbia available at: [http://tbinternet.ohchr.org/Treaties/CED/Shared%20Documents/SRB/INT\\_CED\\_INR\\_SRB\\_7067\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CED/Shared%20Documents/SRB/INT_CED_INR_SRB_7067_E.pdf) [Last accessed on 01 December 2016]

16 Ibid.

17 The number of missing persons varies from source to source. The ICRC published the fifth edition of the Book of Missing Persons, which contains the names of 1,754 people reported missing by their families. See also the ICRC family links website at: <http://familylinks.icrc.org/kosovo/en/pages/search-persons.aspx> [Last accessed on 01 December 2016]

18 Constitutional Framework for Provisional Self-Government in Kosovo, available at: [http://www.assembly-kosova.org/common/docs/FrameworkPocket\\_ENG\\_Dec2002.pdf](http://www.assembly-kosova.org/common/docs/FrameworkPocket_ENG_Dec2002.pdf) [Last accessed on 01 December 2016].

19 The Comprehensive Proposal for the Kosovo Status Settlement is also known as the Ahtisaari plan, after the UN Special Envoy for Kosovo, Martti Ahtisaari, who led the development of the plan. It is available at: <http://www.kuvendikosoves.org/common/docs/Comprehensive%20Proposal%20.pdf> [Last accessed on 01 December 2016].

20 In October 2008, Serbia requested an advisory opinion of the International Court of Justice (ICJ) on the legality of Kosovo's unilateral declaration of independence. On 22 July 2010, the ICJ issued its advisory opinion concluding the unilateral declaration by Kosovo did not violate the general principles of international law.

21 Art. 2.5. of The Comprehensive Proposal for the Kosovo Status Settlement

22 Law No.04/L -23 On Missing Persons; Regulation No.15/2012 On the Work of the Government Commission on Missing Persons: [http://www.kryeministriks.net/repository/docs/Rregullores\\_Nr\\_152012\\_per\\_Punen\\_e\\_Komisionit\\_Qeveritar\\_per\\_Persona\\_te\\_Zhdukur\\_FINAL\\_4\\_.pdf](http://www.kryeministriks.net/repository/docs/Rregullores_Nr_152012_per_Punen_e_Komisionit_Qeveritar_per_Persona_te_Zhdukur_FINAL_4_.pdf) [Last accessed on 01 December 2016].

23 For a critique on the inaction of the Kosovo Institute for War Crimes and Research see: Balkan Transitional Justice, Kosovo War Crimes Institute Accused of Inaction, available at: <http://www.balkaninsight.com/en/article/kosovo-war-crime-institute-lags-in-work-experts-say> [Last accessed on 01 December 2016]; Interview with the member of the KWCRI (date of interview 10 May 2016).

24 The IMWG consists of 12 Kosovo institutions and eight civil society representatives, as well as members of the international community as observers. The IMWG Secretariat is situated within the Office of the Prime Minister (the Decision will be amended to add three more members; Ministry of Internal Affairs; Agency for Gender Equality, and Office for Good Governance).

25 Decision No. 02/200 and Decision No. 03/200 of 15 October 2014. The Rules of Procedure were subsequently passed into Regulation 18/2014 On the Work of the Working Group on Dealing with the Past and Reconciliation LINK: [http://www.kryeministri-ks.net/repository/docs/RREGULLORE\\_QRK\\_Nr\\_18\\_2014\\_PER\\_PUNEN\\_E\\_GRUPIT\\_PUNUES\\_PER\\_BALLAFAQIM\\_ME\\_TE\\_KALUAREN\\_DHE\\_PAJTIM.pdf](http://www.kryeministri-ks.net/repository/docs/RREGULLORE_QRK_Nr_18_2014_PER_PUNEN_E_GRUPIT_PUNUES_PER_BALLAFAQIM_ME_TE_KALUAREN_DHE_PAJTIM.pdf) [Last accessed on 01 December 2016]

26 Articles 3-19 of the General Principles of the SAA outline Kosovo's obligations regarding international law, democratic principles, human rights, and rule of law (3, 4); Kosovo's commitment towards improved relations with Serbia and cooperation with other regional neighbors and EU members (5, 7, 8, 13, 16, 17, 19); cooperation with the ICTY and Rome Statute of the ICC (6); and commitment to WTO Agreements (10).

27 NAPISAA, pp. 40, 43, and 449. Within the Matrix of Short Term Measures, Government approval of a Transitional Justice strategy is noted an item under the Regional Cooperation and International Obligations section to be completed by the third quarter in 2016: p. 449. As this timing was not in line with the IMWG DwPR's own timing,



it sought clarification, via its secretariat, from the Kosovo Ministry of European Integration. The Ministry informed the IMWG DwPR via email on 14 March 2016 that the timing had been pushed back to the first quarter of 2017. As at October 2016, the NAPISAA timing is being reviewed. In line with this, the Report on the Implementation of the National Programme for Implementation of the Stabilization and Association Agreement during January – June 2016 does not address the Transitional Justice strategy in its assessment of the implementation of short-term measures.

28 RECOM website: <http://www.recom.link/> [Last accessed on 01 December 2016]

29 The Coalition for RECOM was established as an intergovernmental committee at the Fourth Regional Forum for Transitional Justice on 28 October 2008. The Coalition consists of over 1,900 members – organizations and individuals from all the countries of former Yugoslavia. The mandate of the Coalition is as an extra-judicial body that is to investigate all allegations of war crimes and other serious human rights violations in connection with the war; list the names of all war victims and victims of crimes pertaining to the war; collect information about the camps and other centers of forced detention; and initiate debate about instruments for detecting and finding the truth about the past in the former Yugoslavia.

30 NAPISAA, p. 449. Clarification as received from the Ministry of European Integration by email to the Secretariat of the IMWG DwPR on 14 March 2016.

31 Author's interview with Vjosa Munoglu and Siobhan Hobbs, 11 October 2016, Prishtina.

32 Author's interview with Bekim Blakaj, 11 December 2016, Prishtina.

33 Author's interview with Bekim Blakaj, 11 December 2016, Prishtina.

34 Ahmetaj N. On reconciliation in Kosovo. Published at Trans-conflict (2013), Available at; <http://www.transconflict.com/2013/10/on-reconciliation-in-kosovo-231/> [Last accessed on 01 December 2016]



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# **Cultural Heritage: Contested Perspectives and Strategies in Kosovo**

**Nikolaos Pasamitros**

## **Introduction**

Despite the strenuous efforts of the international community to normalise social and political life in post-war Kosovo, the country remains de facto divided. Among other means, some international organisations and supranational institutions have utilised cultural heritage in order to ease ethnic tensions and promote inter-communal reconciliation. At the same time, domestic decision-makers promote a model of cultural heritage that aims at tightening national cohesion through nation-centric and ethnocentric interpretations and narratives of Kosovar cultural heritage. This paper aspires to address the issue of the uses of cultural heritage, as a concept, policy and practice, by key actors in Kosovo. Cultural heritage is a concept, which allows comparing theory to practice as this is a liberal Universalist concept which can become nationalised in practice, particularly by the realities of a divided society such as Kosovo.

This paper aims to examine the strategies of key cultural heritage actors in Kosovo. Firstly, it goes into the history and theory of heritage, as a necessary step towards understanding its significance and use in different contexts. Then, it juxtaposes strategies of international actors to the ones of national actors in a scheme of Universalist idealism versus national, politicised her-

itage reality. Subsequently, it comparatively examines religious and spiritual heritage as an idealised space for reconciliation against a divisive experience in social realities on the ground in Kosovo. The paper claims that cultural heritage policies of international actors remain largely ineffective, while those of domestic actors sustain division and enhance dominant ethnocentric perceptions. In specific, it demonstrates that in Kosovo, religious and spiritual heritage lie at the very core of ethnic divisions. Appropriations of what is considered one's "own" heritage serve the purposes of the dominant ethnic narratives, while the heritage of the "other" is a signifier of distinctiveness and preserves divisive logics.

Due to the fact that heritage is perceived and interpreted through the prism of identity and, at the same time, used to define identity according to the current needs of particular groups and individuals, it is important to study the definition and use of heritage in its different environments, by different actors and in different time and space settings. This paper explores the potential of heritage for conflict transformation according to its capacity to promote any amelioration or aggravation of existing conflicts. Since the former is connected to universal values and the latter to nationalist and ethnocentric stagnancy, it is imperative to briefly go through the history and development of the concept of cultural heritage, its definitions and its international setting.

Kosovo attempts to enter the club of sovereign states and establish all the structures that would solidify its position among them. Registration, authorisation, safeguarding and recognition of cultural heritage, according to the international standards, are considered means for bringing Kosovo one-step closer to the aim of sovereignty. Thus, the existing universal discourse on heritage which Kosovo aims to follow, as well as the current status of its cultural heritage affairs, are of great importance for this study. What comes into sight in the case of Kosovo is that definition, interpretation and use of heritage according to the strategies, interests and needs of the key groups and actors, is highly political in nature.

## **Cultural heritage and universal ideals**

In order to research the uses of cultural heritage in Kosovo, this paper presents the history and theory of heritage and their main aspects. Heritage, as a panhuman notion and normative social construct, contains certain universal values. Universalist approaches accentuate heritage as inherently ecumenical, naturally globally accepted and by default peace promoting.

In the 20<sup>th</sup> century, heritage arose as a matter of universal concern. Mass destruction of cultural sites during the 2<sup>nd</sup> World War, with the annihilation of the Monte Cassino Abbey<sup>1</sup> being the most notorious case, made the peoples of the united nations decide, not only to try to save future generations from the scourge of war, but also to protect what is considered cultural heritage. For that reason, the United Nations Educational, Scientific and Cultural Organisation (UNESCO), with the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict, set a number of provisions for the protection, safeguarding and respect of cultural heritage. The Convention contains the term cultural property that is defined as:

*“Movable or immovable property of great importance to the cultural heritage of every people”, “buildings whose main and effective purpose is to preserve or exhibit the movable cultural property” and “centres containing a large amount of cultural property”. (UNESCO 1954)*

The 1954 Convention, not only defines heritage as exclusively material and tangible but also appoints ownership of heritage to peoples and also to all mankind as a result of its significance. This definition is Universalist in scope and at the same time western-centred, as it exclusively refers to material heritage.

In 1972, the UNESCO Convention concerning the Protection of World Cultural and Natural Heritage defined cultural heritage as the monuments, groups of buildings and sites of outstanding universal value (UNESCO 1972, 2). This definition appoints a universal character to the term heritage, as ‘outstanding value’ is supposed to be judged upon criteria of worldwide acceptance. This Universalist normativity presents such narratives as an integral part of heritage.

However, the post-2<sup>nd</sup> World War UNESCO conventions are not the first ones attempting to define and create a protective framework for heritage.<sup>2</sup> In 1907, The Hague Convention respecting the Laws and Customs of War on Land, included provisions for the protection of historic monuments and buildings dedicated to religion, art and science (ICRC 1907). In 1931, the International Museums Office of the League of Nations organised the First International Congress of Architects and Technicians of Historic Monuments that led to the drafting of the Athens Charter for the Restoration of Historic Monuments. The Charter included a series of resolutions and principles relating to the protection of monuments (ICOMOS 2011-2015). In 1935 in Washington, the Roerich Pact was ratified by US public institutions and the Pan-American Union agreeing on the need “that the treasures of culture be respected and protected in time of war and in peace” (Roerich Pact 1935, 1). Although the Roerich Pact does not explicitly offer a definition of heritage, it refers to monuments of national or private property and their respective personnel and assigns the signatory states to propose the monuments to be included in the protection list (Roerich Pact 1935, 1).

UNESCO and its World Heritage Committee also lists heritage sites of ‘outstanding universal value’ (UNESCO 1992-2016). In order for a site to be characterised as a World Heritage Site it has to meet at least one of the ten criteria set by UNESCO (UNESCO 1992-2016) and to have a Statement of Outstanding Universal Value (ICOMOS UK n.d.). Although the 1972 UNESCO’s Convention is considered the major international instrument for safeguarding world heritage (Meskell 2013, 483), the 2003 Convention for the Safeguarding of Intangible Cultural Heritage finally comes to fill a great gap in the recognition of intangible forms of heritage. The Convention defines intangible cultural heritage as:

*The practices, representations, expressions, knowledge, skills – as well as the instruments, objects, artefacts and cultural spaces associated therewith – that communities, groups and, in some cases, individuals recognize as part of their cultural heritage. (UNESCO 2003, 2)*

This addition of intangibility broadens the definition of heritage. As immaterial heritage is recognised, there is also a silent acceptance of the subjectivity of heritage and its relation to identity construction. The recognition of intangible heritage attempts to cover non-western notions and perceptions of heritage. According to Australian archaeologist Laurajane Smith (2006, 54), non-western conceptualisations of heritage question the hegemonic dominance of the idea of

materiality of heritage and play an important role in questioning standard perceptions about it. The Convention on intangible heritage attempts to fill in the abovementioned shortcomings. However, it also creates an artificial distinction between tangible and intangible heritage.

The conceptualisation of heritage by international conventions and agreements bears three common core elements: 1) universality, 2) exceptionality and 3) ownership. Universality derives from the foundational concept of a heritage of worldwide value according to a globally acknowledged set of criteria. According to international heritage standards set by UNESCO, exceptionality is connected to the tangible achievements of human creativity and is also included in the World Heritage List criteria. Exceptionality is also connected to the materiality of heritage in the sense that a site of unique creation needs to be protected and preserved from destruction. Lastly, ownership has a twofold, contradictory meaning. International treaties assume that world heritage is owned by mankind as a natural outcome of the universal relevance of the sites. At the same time, international conventions assert national or ethnic ownership to the very same sites that are characterised as universal and heritage of mankind.<sup>3</sup> In that way, sites declared as universally significant are also allocated to specific nations. Here lies an inherent contradiction with repercussions on the application of heritage strategies. Heritage declared as of universal ownership, is, in practice, appointed to sovereign states, which are the political actors of national ideals.

## **Spiritual and religious heritage**

Cultural heritage can be categorised in different ways depending on the emphasis on the various aspects of heritage sites, objects or practices. UNESCO notes that approximately 20 percent of the World Heritage List sites have some sort of religious or spiritual connection (UNESCO 1992-2016). Former UNESCO Director-General Federico Mayor (1992, 6), identifies certain characteristics of spiritual heritage that derive from its intangible, immaterial character; spiritual heritage is transmitted and recreated by the majority of the members of a community, seldom just by specialists or professionals and its character is cumulative and based on the group. According to ICOMOS (2005, 33), the term religious property refers to any form of property with religious or spiritual associations such as churches, monasteries, shrines, sanctuaries, mosques, synagogues, temples, sacred landscapes, sacred groves, and other landscape features. The term sacred site refers to areas of special spiritual significance to peoples and communities (UNESCO 1992-2016) like forests, mountains, settlements and necropolises (ICOMOS 2005, 84). Religious heritage and sites are unbrokenly connected to religious practices of people according to their religious identities. Religious identity refers to religious self-identification meaning the self-categorisation of the individual into religious affiliation, beliefs and denomination (ARDA n.d.). In contrast to religiousness and religiosity, religious identity refers specifically to religious group membership regardless of religious activity or participation.

## Theories of heritage: a critical tour d' horizon

Heritage is a lot more than international relations, international law and policies of Intergovernmental Organisations (IGOs). The question of defining cultural heritage preoccupies academics and practitioners of different disciplines and stimulates a constantly ongoing debate that touches philosophical and ontological domains. Defining and redefining heritage is a dynamic process of critique, agreement, disagreement, conflict and compromise. The fluidity of the term itself is perfectly reflected in the debate over the definition of heritage. Heritage is an abstract term and as such, the attempts to define it are value-laden. Political and social discourse, space and time are some of the parameters that influence and shape perceptions of heritage. Dominant definition of heritage contains a linkage with group identity. Heritage is both a symbol of cultural identity of a self-identified group, be it a nation or a people, and an essential element in the construction of group identity (Blake 2000, 84). Heritage is linked to national identities and is entangled with discourses of nationhood, citizenship and nationalism (Smith 2015, 135). So, it is identity that largely affects perception, interpretation, definition and use of heritage. Thus, although heritage is often presented or perceived as objective and self-defined, its image and content is in fact highly subjective and, as such, highly political.

Exceptionality and ownership, as mentioned above, are two elements that also exist in a conceptual framework of heritage that is older and more influential than the cosmopolitan one promoted by international organisations. This dominant heritage discourse originates from the development of nineteenth-century nationalism and liberal modernity, and is intrinsically embedded with a sense of pastoral care of the material past (Smith 2006, 17). Smith calls this discourse, Authorised Heritage Discourse (AHD) and its characteristics are that it privileges grand, old, aesthetically pleasing sites associated with the aristocracy, the church and constructions and myths of nationhood (Smith 2009, 1). This practically means that, even if international actors try to apply reconciliatory interventionist practices by imposing universal ownership standards, on the ground there are deep-rooted authorised narratives directly connected to ethnic and national identities. Characterisation of cultural heritage under this discourse is highly political:

*The decision as to what is deemed worthy of protection and preservation is generally made by State authorities on national level and by intergovernmental organisations-comprising member States-on international level (Blake 2000, 68).*

The 'culturally literate' of each nation are the ones that have the necessary expertise to define whether a cultural piece or site constitutes cultural heritage. In the past, the experts were the members of the dominant social classes that set the nationalist and romanticist agenda of their era, while nowadays the experts are archaeologists and conservation architects (Smith 2006, 22-23, 26). Contemporary experts bear also the responsibility to protect the value and also guide non-experts in understanding cultural heritage (Smith 2015, 135).

Both the Universalist and the national discourse approaches have been criticised on several accounts. The Universalist approach is mainly blamed for promoting assimilationist cultural policy (Smith 2009, 1). In addition, it is criticised for being restrictive in the sense that, according to the international conventions, it requires operation through state parties, a function that downplays communities and other sub-national groups (Smith 2015, 134). The national



discourse has been also criticised for being exclusivist and for marginalising subaltern groups (Smith 2006, 30). Lowenthal (1998, 227), underlines the incompatibility of the different levels of heritage (global, national, regional, communal), international conventions attempt to accommodate. Both the national and the universalist approach favour the grandiose and the imposing which renders heritage something that attracts passive, popular gaze and the audience uncritically consumes the message of heritage constructed by heritage experts (Smith 2006, 31). This notion of expertise has also given birth to liberal cosmopolitan interventionist cultural policies on promoting reconciliation by seeking to change local perceptions on heritage (Vos 2015, 716) from nationalistic and exclusivist to ecumenical and peace-promoting – however, with poor results so far. In that sense, local and non-authorised interpretations of heritage seem to be cornered by nation-centric notions on one side and by reconciliatory cosmopolitanism on the other.

Critical approaches stress the need for consideration of alternative perceptions and definitions of heritage. In specific, critiques of nationalist and Universalist authorised approaches focus on the exclusion and alienation of non-dominant groups. Therefore, they call for engaging communities in heritage management and for considering their needs (Smith 2006, 35). Another aspect of criticism is the neglect of the intangible element and the need to open up to more inclusive conceptions of heritage that respond to non-western, local or indigenous needs (Samuels 2014). Definitions that stress materiality fail to acknowledge non-material forms of heritage and marginalise resources or processes used in subnational group identity work (Smith 2006, 36). Supercritical theories suggest that, since the concept of heritage pre-existed the 19<sup>th</sup> and 20<sup>th</sup> century nationalism, it is inadequate to solely study the concept as a product of one of its modernist strands and, instead, long-term examination is needed (Harvey 2001, 326). Along the same lines, Fidora suggests (UAB 2016), that 13<sup>th</sup> century Christian theologians examined and translated the Talmud and consequently utilised it in order to refute Jewish faith and substantiate the truth of Christianity. This example shows that pre-modern, pre-national or pre-ethnic groups have used cultural heritage as a political instrument of self-identification and power long before the emergence of modern-day nationalism. Harvey (2001, 326) also suggests that in pre-modern times pre-nationalist narratives existed, when a particular notion of heritage was used in order to legitimise a “national consciousness” or a communal memory akin to an early “nation-state”. This approach claims that heritage existed and was preserved through oral custom and non-elite practice.

## **The quest for in-group unity: divisive uses of heritage**

The brief examination of heritage and heritage perceptions shows that there is a set of common elements that exist in all approaches; the issues of 1) group identity and political interest, which are more evident in nationalist environments, 2) a. memory and remembrance and b. the present in shaping the past and future and 3) the interweaving of tangible and intangible elements, emerge as important aspects for the understanding and study of heritage.

Heritage has been used as a tool for establishing and preserving identity and heritage sites and practices as points of reference of common group identity. Smith raises the issue of the provid-

ing of a tangible element to an abstract notion:

*The association between heritage and identity is well established in the heritage literature – material culture as heritage is assumed to provide a physical representation and reality to the ephemeral and slippery concept of ‘identity’. (Smith 2006, 48)*

National identities are constructed, among others, upon monumental buildings, museums and artefacts mobilised in order to create positive in-group images. Such monuments along with the omnipresent national flags (McLean 2006, 4) (Smith 2006, 49) solidify and legitimise in-group favouritism (usually nationalist or ethnocentric). As Anderson points out, grand monuments function as emblems of nationalism:

*No more arresting emblems of the modern culture of nationalism exist than cenotaphs and tombs of Unknown Soldiers. [...] Yet void as these tombs are of identifiable mortal remains or immortal souls, they are nonetheless saturated with ghostly national imaginings. (Anderson 2006, 9)*

Nevertheless, also the banal or the vernacular create a national or ethnic normality. Many states produce such normality through constructions like the national bird, national tree and national food that train people in a particular way of observing and perceiving reality.

Identity is unbrokenly connected to memory and remembrance. National and ethnic narratives make reference to past historical events that constitute signifiers of group identity. This creates a paradox: while the nation-state is conceded as new and historical, the nations to which they give political expression loom out of a past immemorial and glide into a limitless future (Anderson 2006, 11-12). Smith (2006, 58) notes the link between heritage places and the invoking of collective memories. She draws the attention to the continuous reinterpretation of the past according to the experience and needs of the present. Harvey (2001, 326) argues that the meaning of the past is constantly rewritten according to the present circumstances.

It seems that while the tangibility of heritage is over-stressed, there is rigorous, intangible value and identity-laden interpretations underlying the tangible, which has not been analysed in depth. Authorised Heritage Discourse (AHD), in both its nationalist and universalist facets, plays a conceptual trick to beneficiaries of heritage: by fractionalising heritage in tangible and intangible, it preserves the ‘objective’ nature of the tangible while, at the same time, it satisfies requests for recognising the intangible. Thus, by hiding the intangible element, heritage is presented as the ‘hard facts’ of nationalism or universal standards while identity and value-laden presuppositions and judgements are obscured.

Such uses of heritage exploit its tangible and intangible elements in a game of identities that tip-toes between the interrelated terms of “sameness” and “otherness”. Following the sociological suggestions that identity contains sameness and difference at the same time (Abercrombie, Hill and Turner 1984-2006, 190)<sup>4</sup>, heritage is mobilised to signify and constantly remind bearers of identity of the commonalities of the in-group in contrast to the differences constructed towards the out-group.

## Cultural heritage policies in Kosovo: universalist intervention vis-à-vis intercommunal cleavages

The UNESCO World Heritage List includes four world heritage sites<sup>5</sup> in Kosovo, all registered under the state patrimony of the Republic of Serbia<sup>6</sup> (UNESCO 1992-2016). This is because the province of Kosovo and Metohija used to be under Serbian sovereignty. At the same time, Kosovo, or for the preciseness of international status, Kosovo under UN Resolution 1244, is neither a member of the United Nations (UN) nor of UNESCO. On 21 October 2015, at the 38th session of the General Conference, the UNESCO Executive Board recommended to admit the Republic of Kosovo as a member of UNESCO (UNESCO 2015). This request was denied. While Kosovo needed 95 votes to enter, it managed to get 92 with 50 voting against and 29 abstentions (Collaku 2015).

Despite the rejection by UNESCO, there are other supranational bodies that have attempted to apply internationalist concepts of heritage in the former Yugoslavia. In 2003 the Council of Europe (CoE) and the European Commission introduced the *Regional Programme on Cultural and Natural Heritage in Southeast Europe*. Since then, they have actively tried to change local perceptions on heritage in the region with questionable results (Vos 2015, 716). Between 2009 and 2015 the CoE and the European Union (EU) implemented the programme *Support to the Promotion of Cultural Diversity in Kosovo* or PCDK (CoE 2014).

On paper, the Kosovar legal framework on heritage protection complies with international human rights standards. Kosovo also attempts to be “in line with the internationally recognised guidelines and practices as promoted by UNESCO, CoE, ICOMOS, ICCROM etc.” (MKRS-KS 2016). However, there are shortcomings in the implementation of this framework on cultural heritage protection. The responsible institutions remain to a large extent ineffective (OSCE 2014, 5). The website of the Ministry of Foreign Affairs of the Republic of Kosovo, informs those interested that there is a high respect for cultural heritage, tangible and intangible, and that it is treated as a very important part of the living environment and it is considered a treasure of all the people in Kosovo (MFA-RK 2015). Thus, while the AHD is an accepted concept in Kosovo, implementation issues arise due to the international status of Kosovo and the ineffectiveness of its authorities. The Program of the Government of the Republic of Kosovo 2015-2018 (2015-2018, 71) reports that the Kosovo Council for Cultural Heritage (KCCH), one of the main bodies for the preparation and implementation of the National Strategy for Cultural Heritage, was not functional. Repercussions include a delay in drafting the List of Cultural Heritage under Permanent Protection. Schermer, Shukriu and Deskaj (2011, 241) note that the Council was formed in February 2009 by parliamentary vote, appointing seven professional members. At the time of writing (August-November 2016), the website of the Council for Cultural Heritage was unfinished and most of its sections marked as under construction, a situation indicative of the dysfunctionality of the Council for Cultural Heritage (KCCH n.d.). Local stakeholders offer diverse explanations for the ineffectiveness of the institutions. The department of Cultural Heritage of the Ministry of Culture, Youth and Sport of Kosovo, accentuates the lack of professionals and experts.<sup>7</sup> The Religious and Cultural Heritage Advisor of the EU Office in Kosovo Rick Spruyt stresses that governmental cultural policies and institutions suffer from general societal mistrust and, more specifically, the non-majority communities’ fear of being marginalised.<sup>8</sup> Regarding the city of

Prizren, cultural heritage and urban planning activist Hajrulla Ceku, criticises heritage policies for being divisive *per se* as they draw ethnic and religious lines through concepts of heritage ownership and heritage inclusion.<sup>9</sup>

Moreover, Kosovo, in an attempt to fit international standards, follows a lists' approach by recording all the cultural heritage sites under protection. The lists of Temporary Protection sites for 2014 and 2015 offered by the Ministry of Culture Website, only in Albanian, are exhaustive and include a wide variety of heritage sites and objects (MKRS-KS 2015). In contrast, the on-line Database of Cultural Heritage of Kosovo presents a more selective list.<sup>10</sup> The governmental website ([www.dtk.rks-gov.net](http://www.dtk.rks-gov.net)) includes a list of 400 recorded heritage buildings and objects. The texts that accompany each heritage recording use a language that mostly accentuates the role of the sites for the history of the Kosovar nation. In other instances, it points out the contribution of the local population, by obscuring however who constitutes 'the local' each time. Many recordings are tightly connected to nation-building and others have references to the uses of sites during the 1999 war.<sup>11</sup> Furthermore, the list includes 27 churches and 7 monasteries. Three of the churches are characterised as early Christian, one as Catholic and one as Saxon. For the remaining 22 churches, the terms Orthodox or Serb are omitted. Some official sources suggest that the selective promotion of heritage sites could be part of the government's agenda to promote a slow Albanisation of Kosovo's cultural heritage and the marginalisation of smaller communities.

Clearly, Kosovo does not only attempt to bring its heritage and heritage management to the standards of UNESCO and other international organisations. It also attempts to utilise heritage for purposes of nation-building and promoting national cohesion on an ethno-national basis, just as most western states do or have done in the past. This endeavour includes identity-based interpretations of the past, which, in the Kosovo case, perpetuates a Serbian hetero-identity; the silencing of alternative narratives; and the appropriation of heritage from preceding Yugoslav and Serb authorities. The National Strategy for Cultural Heritage 2016-2026 explicitly refers to the "return of archaeological and ethnological treasure of Kosovo and archive documentation of cultural heritage of Kosovo from Serbia" (MKRS-KS 2016, 10). Not surprisingly, there was a high concern that the 2015-2017 National Strategy for Cultural Heritage ignores the needs of the Serb community in terms of heritage protection. However, upon concerns of the international community, in December 2016 the draft was amended to reflect commitments for the protection of Serbian religious and cultural heritage. (Spruyt 2016). Such examples suggest that, despite governmental pronouncement of promoting multiculturalism and diversity, their political will to implement related policies remains questionable (Schwandner-Sievers and Ströhle (2012, 501), also in the realm of cultural heritage policies.

## **Spiritual heritage in Kosovo: interreligious practices, nationalism and myths of secularism**

Kosovar reality regarding spiritual heritage and religious practices is a crash-landing for inter-nationalist idealism. Mono-religious practices such as worship and pilgrimage were a target of occasional acts of violence in the post-1999 Kosovo, arguably because they signify a distinctive

characteristic of the 'otherness' of the out-group. In 2001, a bomb attack on a bus convoy carrying Serbs to a religious ceremony in Kosovo led to the death of seven pilgrims (BBC 2001). In 2013, in two cases, ethnic Albanian protestors threw stones and attempted to prevent Serbian Orthodox pilgrims from attending the Assumption of the Holy Virgin Mary Church in Gjakove/Djakovica and Mushutishte/Musutiste in Suhareka/Suva Reka (US Department of State 2014, 8). In the same year, unidentified persons threw stones at buses carrying Kosovo Serbs as they returned from the celebrations of St Vitus Day at Gazimestan (Balkan Insight 2013). In January 2015, two members of the Vetevendosje Movement were arrested for throwing ice at a bus carrying Serb pilgrims from Belgrade to an Orthodox church in Gjakova/Djakovica (Collaku and Ristic 2015). Regarding heritage sites, apart from the destructions that occurred during the Kosovo War, 35 Orthodox churches were desecrated or destroyed during the unrest of March 2004. These sporadic acts of violence against pilgrims, along with the attacks on sites, justify the continuous presence of security forces in sites of religious significance and the occasional supervision of important religious festivities.

At the same time, Kosovo has long been known, and, as demonstrated further below, likes to promote itself, as a place of interreligious tolerance. Practices documented in the past include the common use of pilgrimage sites, shared religious celebrations of holy places and the worshipping of saints and shrines belonging to another religious tradition. Some of these practices have been related to the establishment of the Bektashi Order in the late 19<sup>th</sup> century (Duijzings 2000, 81-82, 169-170). Duijzings thoroughly researched Christian pilgrimage sites worshiped by Muslim pilgrims during the late 1980s and early 1990s.<sup>12</sup> In particular, he recorded how different religious groups congregated in the Catholic Church of Letnica, the Orthodox Monastery of Gracanica and the Sveti Vraci Orthodox Church in Zociste. His ethnographies document that pilgrimage in Kosovo, as in the Western Balkans at large, often were characterised by a blurring of formal religious boundaries:

*Muslims and Christians of different ethno-religious backgrounds have visited each other's shrines, shared the veneration of certain saints and often disregarded their priests' objections to the crossing of religious boundaries. (Duijzings 2000, 84)*

The Yugoslav wars led to the deterioration of relations between ethnic and religious groups and consolidated segregation. Single, ethnic identities substituted the Yugoslav one and suppressed alternative identity choices (Verdery 1994, 39). In the case of Zociste the previously harmonious coexistence between Albanians and Serbs deteriorated in 1991. Ethnic segregation was reflected in Sveti Vraci where Albanians began to boycott the mixed pilgrimage (Duijzings 1999, 1). In 1999 the Sveti Vraci monastery was destructed and was rebuilt in 2004. Nowadays, although Albanians continue to visit the monastery, Serbs approach only escorted by KFOR and Kosovo Police under the fear of being attacked (Ferrari and Benzo 2014, 213). Similarly, the monasteries of Visoki Dečani and Devic used to attract pilgrims from different ethnicities and religions (Ferrari and Benzo 2014, 214) but were both attacked and vandalised, presumably by Albanian radical nationalists, at several occasions (Burke 2009) (CNN 1999), (Kozarev 2015, 1). In Gracanica, a place of high significance for Serb nationalism Muslim Roma used to attend the Feast of the Assumption in the local Orthodox monastery in harmony with Serbs although there was no direct contact among them (Duijzings 2000, 67-71). The Catholic Church of Letnica, is another site visited every year by thousands of pilgrims of various ethnic and religious backgrounds. The Madonna of Letnica mostly attracts Catholics (Croat and Albanian) and Muslim Roma and to a lesser extent Orthodox Serbs and Muslim Albanians. In the 1990s, Serbs had



taken up political power in the area and ousted the local Croat population (Duijzings 2000, 39-41). The Kosovo war has left Letnica even more scarred. In 2011, the village had only ten permanently inhabited houses. However, many former inhabitants and many more pilgrims return to the village in mid-August for the feast of the Assumption (Osmani 2011). The interreligious character of the pilgrimage is not lost although, under the fear of violent incidents, pilgrims are accompanied by KFOR (Robertson 2009).

The Cultural Heritage Law of Kosovo specifically refers to spiritual heritage and assigns that Cultural Heritage relating to, or deriving from, religious confessions shall be governed by the legislation on the status of religious communities in Kosovo (UNMIK 2006, 1). The National Strategy for Cultural Heritage 2016-2026 refers to the protection of religious heritage in accordance to Article 9 of the Constitution of Kosovo and the obligation of the state to protect the religious heritage and religious monuments of all communities under Article 58. In addition, it refers to the law for the protection of the cultural and religious heritage of the Orthodox Church in Kosovo and the promotion of religious diversity and interreligious dialogue (MKRS-KS 2016, 4, 7). The website of the Ministry of Foreign Affairs refers to the religious monuments as part of the cultural heritage of Kosovo; to the tangible and spiritual elements of cultural heritage representing communities, groups and individuals; as well as to the intangible heritage as part of the history and identity of the communities (MFA-RK 2015). The 2016-2026 National Strategy specifically refers to the promotion and facilitation of intercultural and interreligious dialogue (MKRS-KS 2016, 8). Moreover, there are Interfaith Conferences organised in Kosovo annually (President of the Republic of Kosovo 2016), (Schlumberger 2015, 3), which attract international speakers and are considered important for inter-communal reconciliation and fighting extremism. The presentation of these conferences on official Kosovo government websites (Gashi 2014), (MFA-RK 2015a), (MFA-RK 2010-2015), (President of the Republic of Kosovo 2016), demonstrates an eagerness to project a commitment to interfaith tolerance to the international community which appears greater than any concern to address issues of interreligious coexistence in practice.

At the official level, interreligious dialogue and contact in Kosovo serves, in fact, as a political bargaining tool between the Albanian majority and the Serb community. The government of Kosovo seeks to achieve recognition through all available channels and, at the same time, implement an inclusive heritage policy as little as possible (Spruyt 2016). The UNESCO affair was another opportunity to solidify the international status of Kosovo. At the same time, the Orthodox Church is under heavy pressure and control from Serbia (Çeku 2016). However, the Orthodox Church, by openly opposing Kosovo's UNESCO candidacy in 2015 did not just bow to external pressures but also expressed real fears of the Serb community that the Kosovar government might be waiving their constitutional and legal protection (Spruyt 2016).

Interreligious pilgrimage and joint veneration of shrines might offer solace of cultural and religious coexistence in a fragmented society. Paradoxically, given the outward projection of interfaith tolerance, the government has yet to emphasise such expressions of tolerance and inclusion rather than to silence them. Perhaps images of the security forces still present at religious sites are not seen as conducive for promoting a favourable image of Kosovo to the outside world. Alternatively, the multiplicity of interreligious worshipping, in practice, does not comply with an inward directed, dominant national narrative of Albanianism.

As mentioned earlier, for priests and imams, religious practices that surpass religious boundaries are not acceptable. Mixed attendance to shrines still prevails, as blurred, overlapping beliefs and superstitions of the faithful keep these practices alive (Çeku 2016). These very beliefs and superstitions remain an integral part of the spiritual heritage of Kosovo and their interreligious potentials have yet to be discovered in Kosovar heritage policy.

The dominant narrative that Albanian nationalism is exclusively secular (Malcolm 2002, 87) and thus should not be equalised with a Muslim identity based on Islam, should not distract from the fear of smaller communities regarding their marginalisation and assimilation. Indeed, Albanian nationalist leaders have avoided politicising religion in Kosovo (Krasniqi 2011, 192) and the diversity of Albanian religious identities have long been systematically played down (Duijzings 2000, 159) in order to support internal unity in the process of nation-building. However, both Albanian and Serb nationalisms have sacralised their ethno-national identities (Duijzings 2000, 157).

In Kosovo, the process of nation-building is ongoing in the frame of which there is an attempt to appropriate heritage in order to build a national identity. According to the EU Advisor Rick Spruyt (2016), since there are not many Albanian cultural heritage sites in Kosovo, on the one hand, Ottoman heritage is exploited for nation-building purposes and, on the other, it is politically painful and burdensome for the Albanian majority to protect heritage belonging to the “enemy”.

The responsibilities of the international actors for the current situation of cultural heritage in Kosovo are not to be neglected. UNMIK failed to understand the complex picture of religious life and identity in Kosovo, including the rich traditional local habits and idiosyncratic practices which it could have facilitated taking pride in. Decision-makers and administrators oversimplified societal divisions when categorising people in two fixed, homogenous and colliding identity groups: the majority Albanians, seen as Sunni Muslims, against the minority Christian Orthodox Serbs (Krasniqi 2011, 196-197). Such simplistic viewpoints, along with, as some international officials stress, the inability of the international community to convince the Kosovar authorities of the importance and need for a concrete cultural policy, have contributed to the divided and segregate character of heritage in contemporary Kosovo.

## **Kosovo cultural heritage: high hopes and bitter truths**

Universalist approaches to heritage, based on panhuman ideals, perceive and promote cultural heritage as a means of contact, tolerance, diversity and ultimately, reconciliation between rival groups. Universalists urge that heritage, when perceived as objects and practices of global ownership, can contribute to the amelioration of relations, resolution of conflict and rejection of exclusivist notions and conduct.

In Kosovo, international actors have had the opportunity to practice, if not what some have called, ‘experiment’ with, liberal universal ideals when administrating the state-building process. Not only have they failed in implementation, despite a rich multicultural past of tolerance and coexistence in the region (Ottoman Empire, Yugoslavia), but they have also applied policies



based on ahistorical oversimplifications that, in effect, aggravated the ethnic dichotomisation. Protecting heritage sites without actively facilitating the development of better cultural heritage policies, is what the international community currently offers in Kosovo (Çeku 2016).

Ethnic appropriation and utilisation of heritage by divisive, nationalistic ideologies remains the common practice in Kosovo. For the government, it is a tool in the process of nation-building. In addition, it is a means that could bring the country one step closer to the much-desired recognition which is the main political goal.<sup>13</sup> For Serbia, cultural heritage has served as an excuse to mix in Kosovar matters and manipulate the Orthodox Church and the Serb community. For the Serb community, it is a point of reference for an identity that is under threat. An IGO official source, without explicitly referring to specific actors, mentions that the use of cultural heritage as a political tool is not fruitful.

The past and present of interreligious spiritual practices, on the local level, renders the political uses of heritage even more depressive. Çeku (2016) points out that mixed attendance is a modern-day reality and it is not only Orthodox sites that attract the faithful of other dogmas, but also Islamic sites that attract interreligious pilgrims. An international organisation official supports that, as international experience shows, people in small communities get along, especially in the countryside and villages. Spruyt (2016), confirms that, particularly the older generations, delight in seeing their old neighbours return or visit, regardless of ethnicity. At the same time, however, he worries about the younger generations, as they do not have any experience of coexistence and cultural tolerance but have been exposed abundantly to one dominant, ethno-nationalist narrative. Indeed, a focus on the local level might offer a solution for experiencing contact and rapprochement. A high-ranking IGO official accentuates the willingness of municipal authorities to work with all communities. Çeku (2016) considers Prizren an inclusive, multicommunal model to be promoted throughout Kosovo. Perhaps further decentralisation of power might render municipalities with intimate knowledge of the local realities, key actors in the cultural heritage process in ways that would respond better to local needs and identities.

In Kosovo, despite a plethora of well-planned, solidly-structured laws, there is, inter alia, a de facto division in terms of cultural heritage. Cultural policies are driven by and reflect ethnocentric pursuits of ownership. Cultural heritage in general, and spiritual and religious heritage in specific, represent tools in national identity-formation and at the same time, remain signifiers of rival ethnic and simplistically tautological religious identities. Sadly, this reality is a far cry from the Universalist, idealistic, reconciliation policies and aims of the international actors involved in Kosovo. Individuals working for the CoE, the EU and the UN are pretty aware of this inconsistency and are often critical about it. Nevertheless, international organisations have specific heritage agendas that are neither politically neutral, nor free of groupthink restraints. In addition, the issue of ownership in Universalist approaches remains inherently problematic and poses a problem for heritage policies. All in all, it is not only the irreconcilable nationalist – Universalist perceptions but also the inherently contradictory issue of ownership that renders universalist intervention ineffective.

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Vjollca Alliu, Head of the Heritage Department of the Ministry of Culture, Youth and Sport, Interview with the author. 24 October 2016, Pristina.

Anonymised IGO Official, Interview with the author. 24 October 2016, Pristina.

Hajrulla Çeku, Member of the Search EC Ma Ndryshe CSO, Interview with the author. 28 October 2016. (October 28), Pristina.

Rick Spruyt, *Religious and Cultural Heritage Advisor of the European Union Office in Kosovo*, Interview with the author, 26 October 2016, Pristina.



## **(Endnotes)**

- 1 Movable treasures had already been removed from the abbey before the destruction.
- 2 Blake refers to 15<sup>th</sup> century legislation for the protection of monuments and works of art.
- 3 For example, the Roerich Pact refers to national or private property monuments and the 1972 UNESCO Convention includes several references to national and state rights and responsibilities.
- 4 The issue of sameness and difference draws back to metaphysics and the philosophical inquiries of Plato and Hegel
- 5 All for sites are Christian Orthodox monasteries and churches.
- 6 The Socialist Federal Republic of Yugoslavia (SFRY) became a UNESCO Member State in 1950. The participation of Yugoslavia in meetings and conferences of UNESCO was suspended following September 1992 as the Federal Republic of Yugoslavia was not automatically granted the membership of the former SFRY until 2000 when it became a UNESCO Member.
- 7 Author's interview with Vjosa Alliu, 24 October 2016, Pristina.
- 8 Author's interview with Rick Spruyt, 26 October 2016, Pristina.
- 9 Author's interview with Hajrulla Ceku, 28 October 2016, Pristina.
- 10 The head of the department of Cultural Heritage of the Ministry of Culture, Youth and Sport, Vjollca Alliu noted that all heritage sites of the Temporary Protection list will be gradually included in the online database (Alliu 2016).
- 11 For example, in the cases of "Kulla" of Jashar Pasha in Peja and the Building of the League of Prizren the destruction of the sites by Serbs is stressed. In the case of the Chamber of Haxhi Ahmet in Viti the accompanying text refers to "resistance persons against Yugoslav occupation" in 1930-1950.
- 12 Duijzings' research is based on own observation in 1986, 1990 and 1991 as well as on a 1988 analysis of press reports.
- 13 Religious and Cultural Heritage Advisor of the EU Office in Kosovo Rick Spruyt, claims that the underlying goal of political recognition is manifested by the strategic choice to appoint to the ministry of Foreign Affairs the UNESCO candidacy campaign (Spruyt 2016).



# **Contested Territory - History Textbooks and the Domestic Politics of Education in Kosovo**

**Narcisa Semić**

## **Introduction**

This study explores the conflicting Serbian and Albanian territorial claims as manifested in the mythologisation of history in the respective text books; how this is prevalent nearly twenty years after the end of the 1999-war still; and how this issue is being addressed in domestic educational policy in Kosovo today. It demonstrates the relationship of two opposed national narratives embodied in the Republic's history textbooks for primary and high school students as currently in use. These narratives emerge as representative of the political situation at large. Currently two parallel educational systems compete, marked by two different ethno-national perspectives, Albanian and Serbian. This reflects the fact that the majority of the population in Kosovo is Albanian, while a minority group of Serbs in Kosovo harks back to the Serbian population constituting the majority in those former Yugoslav, or Serbian, state formations which, territorially, included the now independent Republic of Kosovo. Either of these two population groups can thus make proud, ethno-nationalist claims to majority territorialism, depending on the respective geopolitical context of a given time, yet also always in opposition to each other. As ethno-national population groups they exist side by side. So do their narratives, whilst their definition of national identities and territorial claims remain, until today, in irreconcilable ideo-

logical contradiction.

The first part of this paper situates this conundrum as well as the role of education, in general, within contemporary theoretical debates of nationalism. The second part compares and contrasts selected Albanian and Serbian textbook narratives with a special focus on territorializing myths of, respectively, ancient and medieval Kosovo history. The third section traces the interrelation between textbook content, educational systems and domestic and international policy in Kosovo today.

## Theoretical considerations

In much of the theoretical literature, a distinction is typically made between Western types of nationalism, considered as being civic, and an Eastern type, the ethnic one (Smith 1986). However, as Rogers Brubaker (2006, 135) suggests, in reality “...it is often impossible, or at best problematic, to characterize an entire state, or an entire national movement, simply as civic or ethnic”. According to him, all nationalisms could be labeled as ethnic at some point in their history, and the so-called civic type of nationalism is ambiguous. Rather than simply a voluntary association of culturally unmarked citizens of a given state, even in exemplary cases such as France or the USA, there is always a crucial cultural argument involved, which can be interpreted as indicating ‘ethnic nationalism’ (136-137).

Brubaker’s proposes differentiating and analyzing nationalism, alternatively, either as *state framed* nationalism or as *counter-state nationalism*. This framework of analysis is particularly useful for the contested case of the Kosovar nation. The first type considers nation to be congruent with the state and is institutionally and territorially framed by it. It applies to Albanian nationalism in Kosovo today (but not before the war). The second type imagines the nation as distinct from, and often in opposition to, the territorial and institutional frame of an existing state (2006, 144). It strives to create its own separate national state, in most cases at expense of existing state. Such counter-state nationalism applies to Serbian nationalism<sup>1</sup> in terms of not recognizing the contemporary state of Kosovo as their own. Not surprisingly, during the 1990s, there were Albanian parallel structures; today, there are Serbian parallel structures in Kosovo.

Although modernist theories such as Anderson’s ‘Imagined Communities’, or Gellner’s emphasis on the role of industrial development in creation of the common language and culture, inform this study’s approach to nation-formations, it also takes into account Antony Smith’s theory of ethno-symbolism. Smith allows for the possibility of historical continuity of *ethnies* as reproducing a repository of myths, memories, symbols and knowledge about a shared history through time. Although modernist and ethno-symbolic approaches differ, they are not irreconcilable, as Miroslav Hroch (2015, 46) points out. He suggests that five factors are of importance when discussing nation: history, language and ethnicity, modernization, conflict of interest, emotions and identity. Such approach can better account for the emotional potential of nationalist identifications and help explain former Yugoslavia’s affective history (Petrović 2016), which is sometimes lost in socio-constructivist and instrumentalist approaches.

For this study it is important to make a distinction between theories of nationalism and the actual national narratives, which are its subject of analysis. Where national territory remains contested and a national identity-building process is still ongoing, critical, socio-constructivist approaches are unlikely to inform secondary school textbooks. However, if these textbooks represent mostly *primordialist* or *perrenialist* standpoints on nation formation, then we can assume that the knowledge that is established leaves little space for alternative narratives.

### **On history, politics and myth**

The nature and functionality of political myths has been the object of research for sociologists, anthropologists, historians and political scientists for quite a while. Ivan Čolović summed up that, in the beginning, this was a critique of “false reality” only. Later this was substituted with the idea that myths are present in all social groups and an important part of collective realities (Čolović 2016, 20). Myths are never only entirely fictional, but they idealize or generalize selected past events. Smith observes that entire mythologies, as elaborated by nationalists, are not fabrications but recombination of traditional, perhaps unanalyzed, motifs and myths taken from epics, chronicles, documents of a given period and material artifacts (Smith 1999, 30). Such novel, narrative recombinations are preeminently the work of patriot intellectuals in search of their “roots”.

Without delving into the discussion whether myths are useful or harmful to a society, one can agree easily with Sundhaussen’s (2008, 27), who suggested that myths become problematic only if they behave as a filter for reality and thus become impossible to refute. A critical approach does not necessarily require choosing between a *functionalist* and a *rationalist* approach. These do not necessarily exclude each other mutually, according to Pål Kolstø (2003, 34-35) although their methodologies differ quite a lot. While the rational approach identifies and analyzes myths in order to create the possibility for a more accurate representation of historical facts, the functionalist approach helps understanding the social, psychological and political functions of myths in the context of their time.

Myths can fulfill an important socio-psychological function in war-torn society. By providing an idealized picture of the past, they can appeal to emotions of belonging, identity and security: “Myth (as part of individual memory as well as of formal historiography), through its sacred and idealizing character, in providing an idealized representation of past collective deeds, can be particularly powerful inspirational and aspirational model for contemporary actors” (Schwandner-Sievers 2002, 19). This is because “they provide an ideal-type model for understanding how we came into being as a group, who we were then and who we are now, the exploits and ideals of past heroes, as well as justifying our leaders and telling us who to avoid as an enemy.” In other words, they codify, justify and affirm a collective understanding of group identity, including a sense of rightful belonging, both socially and in terms of territorial residence, rooted in unquestionable history.

### **Nation and its space**

The narration of a national past is always related to a national space with more or less clearly determined boundaries. This is not to be considered as ordinary territory, but as historical land, homeland or the land of the ancestors. The endurance of the nation on a given territory is sought to be proven through constructing a continuity of state-hood - as with all Balkan na-

tion-states - by seeking predecessors in ancient, medieval or modern times (Koulouri 2001, 20).

This myth of *historical space* (Damir Agičić (2003, 147) of a nation manifests itself as a quest for an exclusive right to a certain territory. As a general phenomenon, it can be found mostly in places where more than one ethnical or national group exist and where all of the groups involved claim their *historical right* to it (Gavrilović 2009, 27). Agičić (2003, 147) notes its wide application in all ex-Yugoslav countries from the last decade of the twentieth century, including in textbooks. Where this myth informs historiographic narratives, the contested territory usually is seen as a symbolic place, containing sites of cultural heritage, signifying stories of death and tragedy for the nation. It is therefore a place that should not be forgotten and holds heightened, sacred value and obligation to the survivors (Gavrilović 2009, 40). Smith (1999, 28) underlines that *ethnie* almost always has an association with a specific territory and that the *ethnie* in question finds it to be its “own”, no matter whether this territory is in its physical possession or just a symbolic, lost homeland.

Denisa Kostovicova significantly contributed to the study on nations and national space through her case study of the Albanian parallel education systems in Kosovo in resistance to Serbian oppression during the nineties. She noted that: “Space is one of the key markers of nationhood. Knowing one’s homeland is indispensable to a sense of national identity. It manifests itself as a feeling about and attachment to land. It is not any land, but that of forefathers, which is imbued with meaning. However, space is also a physical resource. Nationalists vie for control of a nation’s territory.” (Kostovicova 2005, 3)

Pål Kolstø (2003, 30) classified territorializing myths in such context as *antiquitas myth*, one of the most popular types of national myths. Such type of myth can serve as a tool for legitimizing modern nation-states through claiming to be someone who, or doing something that, has already existed or be done in a distant, ancient past. The past thus serves as the model for the present and the future of the nation. Such myths oblige and encourage future generations to take political or even military action in the name of their forefathers and for the ethno-nationalist cause (Schwandner-Sievers, 2013). The conflict arises when two competing groups claim their rights over the same territory in such terms, such as in the case of Kosovo, by aiming to assert their prior right through myths of prior inhabitation of this territory.

Kolstø identified two subtypes of the *antiquitas* myth: **cultural-archeological** and **political**. This Kosovo case study identifies the prevalence of both in parallel today, depending on the available repository of myths, historical knowledge and potential signifiers for the involved ethno-national groups, respectively, in order to credibly construct their respective narratives.

The first subtype is based on ascribing archeological findings exclusively to the ancestors of one’s own group. In Kosovo, those findings are the architectural remains of the ancient towns, churches, monasteries, castles and smaller archeological findings which have been used as argument for the prior presence of the Serbian or Albanian population in the disputed space, respectively. To this subtype also belong findings regarding the ancient languages and culture (everyday life, customs etc.) through which a link of cultural continuity through time is made. The other subtype, political, focuses on an ancient state formation (political organization), which controlled this territory and is claimed as the predecessor of the, respectively, recognized, rightful, modern state in assuming political continuity. The best-known example for this subtype is the Serbian medieval state and its modern national interpretations. In connection to the Serbi-

an medieval state, the Kosovo battle of 1389 and the myth of it, is the most important Serbian national myth. The myth of the Kosovo battle it is strongly present in understanding the past events in the context of the modern Serbian state and nation. The motives of this Kosovo myth are ubiquitous in the media, politics, the arts and education.

### **Educating the nation**

Education is tightly connected with politics. One of the most prominent educational theorists, Michael W. Apple, notes that a curriculum is never simply a neutral set of knowledge, randomly selected and naively appearing in the texts and classrooms of a nation. "It is always part of a selective tradition, someone's selection, and some group's vision of legitimate knowledge. It is a product out of the cultural, political, and economic conflicts, tensions, and compromises that organize and disorganize a people." (Apple 1993, 1) This means that schools and textbooks are guardians and distributors of cultural capital. They build and control meaning, they select human knowledge and define which knowledge is going to acquire status of „socially legitimate knowledge“ (Plut 1994, 12).

History textbooks and educational material are never isolated from the main ideas that define a specific historiography and its accomplishments. Most history textbooks represent the current academic state of historiography of a given nation. They are probably the most concentrated knowledge on history that the majority of its population is ever going to encounter. History education thus tends to reflect the main ideas, perceptions and myth of a given society and its ideology at a time. History textbooks serve as medium for transmitting the nation's understanding of its history to the next generations. This only becomes a problem if there is no space for critical reflection and if mythologization is offered as the only source of information and established truths. Many history textbooks in South-Eastern Europe still take the form of a "grand national narrative", typical for 19<sup>th</sup> century romantic nationalism in Europe at large (see Sundhaussen, 2008, 93, on Herder's influence). History is presented from only one point of view and no alternative perspectives included. Dubravka Stojanović (2010, 124) suggested that, ideally, if informed by contemporary scholarship, beyond offering different options, textbooks should encourage students to explore the various reasons which explain different viewpoints as much as the links between causes and consequences of historical events, in order to help developing a critical understanding of contemporary events. However, textbook analyst and historian, Wolfgang Höpken (2007, 167) noted an uneven democratization and transition process in the ex-communist countries regarding textbook reforms. They reflect the wider state of their national, academic historiography, and the use of nationalist narratives in academic and public life has remained prevalent in many.

Unfortunately, because information is simplified in textbooks (due to the lack of space, time limitation for teachers and students, teacher's perceptions and student's intellectual abilities at a young age), textbooks are a very convenient medium for the creation of a mythic picture of the past and for spreading myths and mythical consciousness (Agić 2003, 139). Textbooks are tools, they make an impact on the creation of a national identity, in terms of spreading and establishing myths and stereotypes. These can be created or eliminated through education and thus might have a long-term political effect on inter-state relations.



While textbooks familiarize pupils are at an early age with images of their own nation, its place in history, its characteristics, as well as with images of the other, notably neighboring peoples, they perpetuate an uncritical, historical awareness (Stojanović 2001, 27). Thus history teaching goes beyond its educational tasks and turns it into an important instrument of state politics. Stojanović explains that most nations in South Eastern Europe emphasize the importance of their ethnic past, with romanticist assumptions about the golden age of the nation, placed in an ancient past with the accompanying tradition, culture, language and customs (2001, 27). Stojanović concludes that this is one of the reasons „why historical awareness plays a big role in people’s everyday life and easily becomes the means for giving legitimacy to the policy [sic] that tends to present itself as the expression of „authentic“, „historical“ and the only proper values of a nation. Due to all these reasons, the process of devising a desirable past has played an important role in the 10-years long wars in the former Yugoslavia.“ (Stojanović 2001, 27)

## Historical space in Albanian and Serbian textbooks

Kosovo as a “historical space” is carved out in very different ways in the two grand national narratives, Albanian and Serbian. In the following, these two narratives and their respective national logic will be juxtaposed to each other through the prism of the antiquitas myth.

### The Illyrians and Albanians

The cultural-archeological subtype of the antiquitas myth can hark much further into the past than the political type, because it does not require written historical records as evidence but can rely on material remains. Myths that hark back to an *immemorial time* “cannot be challenged, and therefore can serve as ultimate authority for justifying a particular group order” (Schwandner-Sievers 2004, 104). For the Albanian narrative, this is evident in its ethnogenesis myth, which claims cultural (and thereby ethnic) continuity in relation to ancient culture, language and tradition from the Illyrians to the modern Albanians (Hoxhaj, 2005). According to the contemporary, critical textbook analyst, Shkelzen Gashi, the Albanian ethno-genesis is taken for granted in Albanian history textbooks in Kosovo: “Albanians are acknowledged almost indisputably as having Illyrian heritage” (Gashi 2016, 10). Similarly, another textbook analyst in Kosovo, Durim Abdullahu, noted that this is demonstrated by devising descent of modern Albanians from the ancient Illyrians as emphasised in Kosovo textbooks (Abdullahu 2014). The authors of the history textbooks draw a line suggesting continuity from the Pelazgians, as the oldest inhabitants of the region, to the Illyrians and then to the Albanians, for example in this fifth grade textbook: “*The earliest population in the Balkans was the Pelasgians. Scholars believe that they were the predecessors of the Illyrians...Illyrians are among the oldest people in the Balkans. They are considered as the offspring of the Pelasgians and are the antecedents of Albanians*”<sup>2</sup> (Rexhepi and Demaj 2015a, 8). This is further backed up by making reference to languages of the past and the present: “*They had a distinct language and customs likewise, very similar to those of the modern Albanians. Their dress is similar to that of the Albanians*” (Rexhepi and Demaj 2015a, 20). There are further claims to a cultural heritage from the Arbërs, who are considered to be the descendants of the Illyrians and provide another link. The Pelasgian – Illyrians – Albanian



cultural continuity argument of these authors reappears also in textbooks for other grades. Statements include, „*the Albanians are the descendants of Illyrians*” (Rexhepi and Demaj 2015b, 24); „*the Illyrian language was spoken in Illyria*” (89); and „*of this old language thousand words survived, like names of persons, tribes, cities, places, rivers, etc.*” (89) On that basis they draw the conclusion that the Illyrian and Albanian words „*are fairly similar with modern Albanian equivalents which account to the fact that Albanians are a direct descendants of Illyrians*” (Rexhepi and Demaj 2015a, 24). By drawing this line from the ancient Illyrians to the modern Albanians, based on an argument of cultural continuity, the authors create a sense of unchallengeable historical depths underpinning the ethnic Albanian character of the contemporary nation.

The argument of Illyrian-Albanian continuity applies to Albanian historiography across the region and including the titular state of Albania, not just to Kosovo Albanians. A variation exists which makes a connection between the Illyrian tribe of the Dardanians to the present day Albanians in Kosovo, thereby supporting one specific political trend among Albanians in Kosovo, which is to emphasize a distinct Kosovar Albanian identity. A fifth-grade textbook, titled „*My homeland in ancient times – Dardania*”, for example, states: „Ancient Dardania is today’s Kosovo and surrounding areas nearby” (Rexhepi and Demaj 2015a, 10). In his study, Gashi highlights this specific attempt of defining Kosovar identity through carving out an ancient space in which Kosovo, not Albania, formed the geographical, historical an emotional center and is identified as the homeland (Gashi 2016, 13).

Generally, in Albanian textbooks in Kosovo, the Illyrians are portrayed in an extremely positive light, with significant amount of space dedicated to them. In contrast, in Serbian textbooks, significantly less space and positive evaluation is dedicated to the Illyrians, and no connection is made between the modern Albanians and ancient Illyrians (Gashi 2016, 13). This is the first major difference in contents between Serbian and Albanian textbooks.

### **The contacts with Others**

Analyst Gashi also found that the topic of *Romanization* is either underplayed or categorically denied by Albanian textbook authors (Gashi 2016, 11). Textbook authors state that „*Illyrians preserved their language, culture, traditions and their customs*” (Rexhepi and Demaj 2015a, 23) after the Roman conquest and becoming part of the Roman Empire. Adding to the argument for continuity from the ancient Illyrians, who resisted to the foreign influences and who have remained true to themselves, contemporary Albanian identity is reaffirmed. In contrast, Serbian textbooks present the Romanization of the Illyrians in terms of their cultural development subsequent to, and as a result of, becoming part of the Roman Empire. Here, Roman and Greek influence is portrayed as positive, whereas in the Albanian textbooks, the same is portrayed as negative, dangerous and finally, non-existent.

When it comes to the topic of Slavic contact, the above logic continues. Albanian textbooks state that, after the Illyrian tribes „*risked being assimilated*” by the Roman invaders and barbarian invasions, they „*were even more endangered by the Slavic colonizing wave*” (Rexhepi and Demaj 2015b, 109). However, the Illyrians, and, later, the Arber tribe managed to „*preserve their existence*, although more of their land was *colonized* by different people, mostly by Slavs” (109). This colonization is described as „*a mixing of the local population with newcomers* that resulted in loss of „*identity of Illyrian Arberi and territory*”. The old population which survived over time

was called Arber and Arberi (109). Illyrians were “*on the edge of assimilation*” but, “Illyrians, and later Albanians, were capable of preserving their own, although a good deal of *their lands was taken over by Slavic settlers...the main factors which enabled the survival of Albanian substance were language, culture, traditions and customs*” (Rexhepi and Demaj 2015c, 109-110).

In summary, Illyrian-Albanian continuity is asserted through reference to such later historical period, as a separate collective that never loses its national Albanian identity. The question of contacts between indigenous Balkan population and Slavs is interpreted only as the competition over territory, with the newcomers settling in an already claimed territory. The true core of the ancient Albanian people is presented as not influenced by turbulent times. In Dardania – today's Kosovo, the ancient population of the Arbers, descendants of the Illyrians, were not assimilated by Romans, Byzantines or Slavs, but preserved their own language, customs and culture (Gashi 2016, 22). In line with this, the establishment of the Slavs in the Balkans is described as an infringement on Illyrian-Arberian territory. Gashi concludes that, with the claim that “the Albanian people remained only in Albania, Kosovo, parts of Macedonia, Montenegro and Greece, the Kosovan textbooks seem to be attempting to project the distribution of today's Albanians into the Middle Ages and across their current spread in the Balkans” (Gashi 2016, 27). He finds that these textbooks give a one-sided interpretation of the mixing of the indigenous populations and the Slavs as a “*loss of Illyrian-Arberian identity*” (Gashi 2016, 27).

Serbian textbooks approach the same topic in a different manner, as can be seen in a textbook for the sixth grade: “*Slavic tribes were mixing and merging with indigenous and neighboring people. In some places, they outnumbered others. Those outnumbered were losing their ethnic identity*” (Mihaljčić 2015, 41). In this case, the author did not name the indigenous peoples as Illyrian or Albanians. He refers to them as Vlachs, which is an ethnonym often used generically for indigenous populations in Serbian. As can be observed, the contents in both the Serbian and Albanian textbooks assign different value to Slavic settlement in the Balkan Peninsula. In another Serbian textbook for the sixth grade, these events are elaborated without mentioning of the terms *ethnicity* and *identity*: “Slavs and indigenous people strongly influenced each other. The local population has been Slavicized in a major part of the Balkans and Slavs have been assimilated by the local population in parts of today's Albania and Greece. The remains of indigenous population are mentioned in medieval sources as Vlachs, Cincars, Romans and Arbanas” (Vekić-Kočić, Kočić and Lopandić 2014, 62).

### **State(s) and Culture(s)**

The cultural-archeological subtype of the antiquitas myth is also evident in relation to the Serbian orthodox churches and monasteries. Their factual presence across Kosovo's territory provide material evidence of Serbian medieval cultural heritage, which tangibly supports Serb continuity claims. Albanian textbooks for the fifth, sixth and tenth grade deal with this conundrum by just not mentioning Kosovo's medieval orthodox churches, built during Serbian medieval rule over Kosovo, at all (Gashi 2016, 40). Moreover, there are no illustrations or photos in Albanian history textbook which would depict any medieval monuments in Kosovo that are connected to the Serbian medieval state. Instead, emphasis is given to the Skanderbeg myth and his fight against the Ottomans, a differently situated myth emphasizing tensions over identity constructions between Albanians in titular Albania and in Kosovo. By contrast, this myth is rarely

mentioned in Serb textbooks (the only exception found is Mihaljčić 2015, 125). Unfortunately, there is no space to further analyze this particular myth.

Regarding the political subtype of the antiquitas myth, an Albanian fifth grade textbook manages not to mention Serbian rule over Kosovo in the Middle Ages at all; only a textbook for the tenth grade explains this historical period, albeit very briefly (Gashi 2016, 32). Generally, where Serbian rule in Kosovo is presented at all, it is usually explained in terms of Serbian economic and cultural oppression of the Albanians only (Gashi 2016, 40). The period of the Serbian kings ruling over Kosovo is described as the Serbian conquest of the Arberi territory. There is a central focus on military actions supported by the Orthodox Church in conjunction with the occupation: "By forced conversion and different pressures [the Church] intended to change the structure of the population in the occupied territories" (Bicaj and Salihu 2016, 43).

In contrast, Serbian textbooks mention Kosovo particularly in relation to these Serbian cultural monuments that are considered an important cultural heritage of the medieval past. Plenty of space is dedicated to the medieval churches within the text and associated photos. The political subtype of the antiquitas myth is evident in the Kosovo battle myth, discussed separately below. Here it suffices to conclude that, for the Albanian side, the antiquitas myth falls silent for the medieval periods including Serbian rule. For the Serbian side, exactly this features as a pre-eminent part of their national narrative.

### **The Battle and its legacy**

Kosovo as Serbian historical space centers around the myth of the Kosovo battle of 1389. As an author of the second grade high school textbooks tells the students, it was not just important to the medieval Balkan peoples, but "the battle has been considered as event of great importance for all Christian Europe" (Mitrović 2016, 191). Apart from serving as an Antemurale Christianitatis myth (arguably mirrored by the Albanian myth of Skanderbeg), here it is argued that this myth represents the most evocative political subtype of the Serb antiquitas myth of Kosovo. Kosovo becomes a historical place of national tragedy in this narrative. The battle symbolizes the beginning of the Ottoman conquest and the defeat of the Serbian medieval empire. Serbian textbook for the sixth grade, when reiterating legendary tales and songs of the Kosovo battle, claim that this legend „differs from an ordinary story“ and it is „based on the true clash“ (Mihaljčić 2015, 129). The discussed textbook conveys to its readers that, on the basis of this legend, *national historical consciousness* has been built and that its core is a real historical event (129). Although it seems as if the text here rightly differentiates myth and actual historical event, by using the expression „*narodna istorijska svest*“, which is to be translated into English as „*national historical consciousness*“, it evokes an emotional connection with the past event, which is imposing an obligation rather than offering a neutral description.

There is not much apparent difference to this logic when comparing the above with other, currently available Serbian textbooks in Kosovo, such as by Šuica and Radić (2011). Here, the Kosovo battle is described as one of „*the most important events in history of the Serbian people*“ (149). Also here attention is drawn to the legends and folk songs which speak of courage and betrayal and that, when in later centuries Serbs fought for „*liberation*“, they searched and found „*inspiration*“ in the Kosovo battle. The text does not list any example of those songs but hail their „*patriotic messages*“ about „*heroism*“ and the fight for „*defense of the state*“ as inspiration for

artists and the Serbian national holiday of Vidovdan. This, according to the text, is the day when the memory of the Kosovo battle is celebrated as a symbol of the „*battle for freedom*“ (Šuica and Radić 2011, 149).

Although the medieval events of the Kosovo battle took place more than 600 years and directly ago, these textbooks connect them directly to the modern Serbian nation and state. Without differentiating between medieval and modern Serbian people and state, several statements such are emotionally highly evocative, even cataclysmic in their melancholic appeal. Examples include statement such as that ‘*the worst could not be avoided*’ (Šuica and Radić 2011, 154) and interpretations such as “folk poets or troubadours could not change the course of history, they wished at least to *change the memory of it*. By highlighting virtues, beauty, faith they have sang one different, variable history of middle ages.”

There is even a suggestion of a critical approach: “from historical reality to legendary tales leads the road on which lurks the great danger that fantasy replaces the reality. When that happens, then truth and facts are being blurred by myths and fantasized history” (Šuica and Radić 2011, 161). Furthermore, “it is very important for the historians to discover what legend is and what the real information on historical events is” (163); “it is very dangerous when legend becomes the main historical source for the acquiring knowledge of the past” (163) and, lastly, “when proclaimed something as truth, but what actually never happened, that is how comes to the misuse of the history. For that reason even wars can be made between nations and states” (163). While emphasizing the need to differentiate truth and myth, there is no guidance for interpreting the political and identity-building functions of the Kosovo myth and its contemporary, emotional appeal to those identifying with the Serbian nation. The presentation of the Kosovo battle in the textbooks discussed remains tightly connected with the national narrative, using tropes such as the defense of the nation, the fight for freedom and national solidarity. There is also no critical deconstruction on what historical reality and what legendary tales might be, in the case of the myth of the Kosovo battle.

There are many more examples which would illustrate the ways in which Serbian and Albanian high-school text books apply the antiquitas myth within the respective logic of persisting ethnonational historiography. For example, Serbian and Albanian textbooks hold opposing opinions on the question of the ethnic origin of Milos, the warrior who is considered to be the murderer of sultan Murat I (the Ottoman leader in the Kosovo battle myth). This phenomenon reflects the same contradiction in earlier versions of history, namely the shared tradition of epic song, depending on which language the legend was recited in (Di Lellio, 2009). While most Albanian textbooks (e.g. Rexhepi and Demaj 2015a, 34; 2015c, 154) ascertain the Albanian origin of this hero, a seventh grade textbook makes no definite judgment and notes that a final conclusion among historians has yet to be made (Gashi 2016, 32 & Abdullahu, 2014). In contrast, Serbian textbooks claim Milos as ethnic Serbian without any hesitation: “Murat has been killed by the Serbian magnate Miloš Obilić” (Vekić-Kočić, Kočić and Lopandić 2014, 178); or describe him as a “brave Serbian knight” (Mitrović 2016, 191). Indicative of the pre-national, ethnically ambiguous identities of some of the region’s medieval heroes, there is, at last, agreement in that both sides consider Milos a hero, albeit of their, respective, ethno-national group.

As can be observed, Albanian and Serbian textbook content stand in contradiction to each other. Where one is explicit, the other is silent. Both sides use both subtypes of the myth of antiquitas, ie. cultural-archeological and political, depending on the historical evidence available. Albanian textbooks favor claims of long-term continuity of culture, language and customs, reaching to the times immemorial of the ancient Illyrians (and related subgroups) in a bid to affirm seamless continuity of Albanian inhabitation of Kosovo. The main purpose of this mythology is to claim territory of Kosovo as exclusive Albanian historical space. The same is done in the Serbian textbooks, however, with recourse to a different set of historical records, namely with focus on the Middle Ages. The Serbian medieval state is considered as the Golden Age of the Serbian nation. Serbian textbooks use both subtypes of the myth, referring to the time when the South Slavs settled in the Balkans Peninsula. Serbian textbooks also construct an archeological-cultural continuity by focusing on Serbian medieval monasteries and churches in Kosovo, the Serbian medieval state that included Kosovo, the memory of the Kosovo battle and its role in creating Serbian historical consciousness.

In summary, both sides make the same type of claims, albeit mutually exclusive, through their history books, using historical information selectively and tautologically. There is similarity in the primordialist construction and ethnocentric use of myths as part of historiography, including the respective omission and silencing of the *other side of the story*. Very little room is dedicated to any neighboring people. In content, the two narrations contradict each other and cannot be integrated into one narrative. Everything presented is in tight connection to the present day political needs of the respective states. The two ethnocentric versions of history in the Kosovo's contemporary textbooks exist independently from each other, just as the two parallel school systems in Kosovo throughout recent periods. Regardless of inverted ethnic relations of power, the same key differences between the two educational systems has persisted as well (Kostovicova 2005, 133-168). The content of the textbooks discussed above has not shown significant change since the time of Kostovica's analysis.

## **Textbook policy and politics in Kosovo**

This chapter aims to reflect on the heritage of the so-called parallel system of Kosovo after autonomy was abolished in 1989. During the 90ties, the Albanians of Kosovo created parallel structures, in which self-organized education was of central importance. Denisa Kostovicova, in her detailed study of the Albanian parallel system, highlighted the strong legacy of spatial and educational divisions among the Albanians and Serbs in Kosovo. Kostovicova also pointed out that NATO intervention in 1999 reversed the situation. Her study was published in 2005, where she pointed out that "in Kosovo, education optimized both nationhood and statehood. The understanding of the nationhood in the symbolic and institutional sense turned the educational system into the battleground. The irreconcilable clash of nationhoods resulted in two national systems in post-autonomy Kosovo, but also in the aftermath of NATO intervention" (Kostovicova 2005, 19).



Textbooks used in Kosovo are derivative of these two educational systems that have long existed side by side. In the major parts of Kosovo, Albanian language textbooks are used, which are part of the Kosovo educational system and are published in Pristina. The textbooks in the Albanian language were printed in Pristina from the times of the parallel educational system in the 1990s (Kostovicova 2005, 310). There is only one publishing house that produces history Albanian textbooks. In the Serb-populated parts of Kosovo, Serbian language textbooks are used and those are part of the Serbian educational system under the auspices of the Republic of Serbia. The first editions of most textbooks also hark back to the early 90ties and only received minor alterations in the meantime, with newer textbooks issued since the early 2000s. Unlike Albanian language textbooks, school can choose among several Serbian history textbooks for each grade.

According to the law in Kosovo, the coexistence of Albanian and Serbian textbooks should not be a problem. Serbian schools can use textbooks from Serbia. They just need to notify the Ministry of Education, Science and Technology (MEST) of Kosovo and demonstrate that there is not any questionable or offensive content in those textbooks. Article 3.2 of the *Law on Publishing School Textbooks, Educational Teaching resources, Reading Materials and Pedagogical Documentation 02/L-67* stipulates, "The school textbooks, the educational teaching resources, reading materials and pedagogical documentation are not allowed if they make propaganda against Kosovo, which violate human rights and gender equality and that incite political, national, and religious hatred."

According to article 3.3 of the same law, "the school textbooks, educational teaching resources, reading material, and pedagogical documentation are used in preschool, primary school, low secondary school and upper secondary school which are allowed by MEST." *The Law on Education in the Municipalities of the Republic of Kosovo* provides more thorough directives regarding education in the Serbian language in article 12:

12.1 Municipalities shall have the competency to create conditions for providing educational services in the Serbian language.

12.2 Schools that teach in the Serbian language may apply curricula or textbooks developed by the Ministry of Education of the Republic of Serbia upon notification to the Ministry of Education, Science and Technology of the Republic of Kosovo.

12.3 A particular curriculum or textbook from the Republic of Serbia shall not be placed in classroom use before notification to the MEST; if, after notification, the MEST raises no objection within three months (to provide sufficient time for the specific curricula or text to be reviewed by the Ministry), the material may be utilized.

Although the law seems well equipped to allow the use of Serbian text books in Kosovo, the situation is more complicated in practice. A supposedly "independent commission for the review of the Serbian language teaching materials" was established by the Kosovo MEST in September 2009. The commission consisted of three members of the Assembly of Kosovo holding seats reserved for the Kosovo Serb Community, three members from the Kosovo MEST and one in-

ternational member (Independent Commission, 2). The report produced by this commission evaluated Serbian textbooks as not compatible with teaching history of Kosovo. The reasons given in this document included that the textbooks „lack any references to the pre-existing Illyrian/Albanian population in Kosovo, or to the relations between Serb tribes and Albanian tribes throughout the Middle Ages“; they also found that “the content of the textbook reflects an exclusively Serbian perspective“, including the Kosovo Battle, which is considered to be presented as battle only between Serbs and Turks and does not mention “other peoples of the Balkan including Albanians“ (Independent Commission 2010, 10-12).

The Independent Commission concluded that “it is essential to have one single educational system valid for all communities in Kosovo“ (Independent Commission 2010, 15). The main argument given, however, is the difference in structures of the curricula and not the content questioned. The Commission proposed by the MEST “develops a complete Serbian-language curriculum that is in line with Kosovo’s Constitution and Kosovo Curriculum Framework“ (Independent Commission 2010, 15). While it is true that there are structural differences (e.g. regarding questions of curricula), the main problem, the ideological and political contestations, are not sufficiently addressed in this report. However, the conclusion of the report offers some directions for the future:

To this end, the Commission proposes that MEST engage in constructive dialogue with educators and pedagogues of the Kosovo Albanian, Kosovo Serbian and other communities in Kosovo in order to generate ideas and momentum towards the development of the curriculum and textbooks on historical topics (Independent Commission 2010, 15).

Clearly, the conclusions of the Commission criticize only the Serbian textbooks, whilst we documented a primordialist affecting the quality of textbook content across the ethno-national divisions in Kosovo. A “constructive dialogue” remains a challenge on the basis of such ethno-centric approach. While the Serbian textbooks are considered inadequate by the Kosovo MEST, Serbian schools do not follow the law in that they do not inform the Ministry about any textbooks that they use. (Anonymous source, 2016)

Unfortunately, the situation has remained unchanged since the report was published in 2010. By not recognizing Kosovo’s statehood, Serbian schools use the curricula and textbooks from Serbia without notifying the Kosovo MEST. While non-recognition might appear to be an international political issue, it is also part of domestic politics, in that the Serbs have created a parallel educational system in order to demonstrate that they do not recognize the Republic of Kosovo as their state. There are no current negotiations between the Republic of Kosovo and Republic of Serbia that explicitly deal with this issue of two educational systems (Big Deal, 2015; Big Deal 2016; Shahini 2016).

Although information is scarce, several episodes of textbook confiscations have recently made headlines. Serbian online newspaper portals such are Blic (Vukašinović, 2016), B92 („Samo uz zahtev“, 2016), Večernje Novosti („Albanci cepaju“, 2016) and Kosovo Sever Portal („Stop za“, 2016) suggest that Serbian textbooks were returned to the sender, or that all books in the Serbian language would be prohibited in Kosovo (which is not consistent with factual truth). The NGO Aktiv from Northern Mitrovica, the Serbian part of the divided town, issued a public



statement regarding a supposed politically motivated retention of Serbian textbooks by customs officers at the border (NGO Aktiv 2016). However, it seems that this was only one side of the story: both governments, Serbian and Kosovar, engaged in some text book confiscations and returned textbooks to the sender. The Albanian minority in the south of Republic of Serbia (Presevo Valley) was affected, when Kosovo textbooks were returned to the sender in the Republic of Kosovo, according to the web portals Pristina Insight (Nikolić, 2015); TransConflict (Wise, 2016); Telegrafi („Të drejtat“, 2015) and Koha net („Librat nga“, 2016). Unfortunately, there exist not much reliable information on the details of these cases. It seems that both countries signed agreement on textbook exchange for their kin populations in neighboring country on 10 September 2015, with only scarce information available on Balkan Insight (Maliqi, 2015), announcing the agreement and the break of it (Collaku, 2015). The official silence regarding this issue reveals that both sides aim to retain control over education for their respective population in Kosovo, be it Serbian or Albanian. Hence, this is no longer a matter of policy, but politics. Textbook confiscation practices can be understood a symptom of non-existent relations between two parallel educational systems, with their respective textbook contents propagating opposite standpoints.

The reverse parallel educational system, which marked the period after the war in Kosovo (Kostovicova 2005, 204), reflects the changed political status. It inverted ethno-national relations of power while the irreconcilable visions of ethnonationalist claims over Kosovo, remain. Since the end of the 1999-war, the “close association between national schooling, on the one hand, and a national state, on the other, eventually became an impediment to the implementation of any gradual solution to the contested sovereignty in Kosovo. Ironically, both the Serbian and the Albanian students held the same opinion: the concession on education was a concession on the national goal in Kosovo” (Kostovicova 2005, 211). Kostovicova referenced a 2003 OSCE report which concluded that „there hasn’t been any sign of genuine tolerance or attempts to find a common ground between the Kosovo Albanian and Kosovo Serb communities regarding the consolidation of educational system.“ (Kostovicova 2005, 208). Twelve years later, in 2015, the same organization reports that still there has not been any progress in establishing an integrated educational system while two parallel systems continue to exist and are operated by the Republic of Kosovo and the Republic of Serbia, respectively (OSCE, 2015,17).

Unfortunately, the findings of this study affirm that the situation is still unlikely to change soon. In a vicious circle of national narratives feeding into irreconcilable political standpoints and rejecting any possibility of genuine cooperation in educational policy, two generations of ethno-nationally differently defined young people are denied the possibility of contact, knowledge exchange and critical dialogue in the educational system. The result of the parallel system is that, even in so-called multi-ethnic schools, where Serbian and Albanian students attend the same school, there is no social interaction and integration between the students of different ethnicity (OSCE 2009, 15). According to the OSCE, „the existence of two school systems with separate textbooks and curricula, including conflicting historical representations, continues to hamper the development of a multi-ethnic society and requires commitment and action by both Prishtinë/Priština and Belgrade institutions“ (OSCE, 2015, 19).

Two mutually exclusive, territorializing myth, which contest the other group’s rightful residence in Kosovo along ethno-national lies, remain supported and advocated in the two parallel Kosovo education systems, as above comparison between Serbian and Albanian textbooks suggests.

The matter of education in Kosovo is highly politicized, historically entrenched and a problem of both domestic and international state policies relating to Kosovo to the peril of the future generations of both Albanians and Serbs in Kosovo alike.

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### **(Endnotes)**

1 This is not to say that all Serbs in Kosovo are against the new state. Broadly, those living north of the Ibar river are seen to be more in line with Serb nationalist ideology than those living in more dispersed settlements across the southern parts of Kosovo.

2 All textbook translations from the Albanian to English by Jeta Rapce-Begic; or quoted according to the translations of S.Gashi (2016) and D.Abudullahu (2014).





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# **Traditional mediation practices at a decentralized level: a resource for or an obstacle to Kosovo's state-building process?**

**Mirjona Sadiku**

## **Introduction**

In post-war Kosovo, multi-ethnicity is one of the core pillars of the internationally facilitated constitution (2008). It foresees securing the new state's multi-ethnic character and improving inter-community relations through a process of decentralization. This involves the devolution of power to local authorities and has been based on the creation of municipalities. However, this process has been heavily criticised by the political opposition (*Vetëvendosje Party, Alliance for the Future of Kosovo*) and civil society organizations (*Kosovo Democratic Institute*) for consolidating rather than overcoming ethnic segregation and, de facto, dividing Kosovo.<sup>1</sup> This study aims to explore the role of traditional, home-grown mechanisms of conflict regulation within the process of power devolution to local institutions. It asks whether these local mechanisms provide a resource or form an obstacle for enhancing interethnic relations.

Arguably, the current decentralization process favours, if not necessitates, recourse to traditional social and community forms of collective self-regulation. On the one hand, this study asks whether, and if so, how, such mechanisms of conflict regulation might have been activated or consolidated in Kosovo today, and why. On the other, the question is whether traditional knowledge of community mediation, be these transformed or reinvented traditions, has yet a role to play in advancing peaceful community life today, particularly (but not exclusively) across the ethnic boundaries commonly seen as the basis of conflict in Kosovo. It begins with exploring theoretical knowledge about universal prerequisites for reconciliation anywhere and asks how these converge with the traditional knowledge as described for the traditional context of Kosovo Albanian culture. It identifies cultural specificities and argues that, where such knowledge converges, it is still compatible with integration into the current state-building process and likely to advance improvement in interethnic relations in Kosovo.

Based on the theoretical assumption that cultural traditions are always subject to modernization and change (Schwandner-Sievers 1999), attention will be paid to the transformations of mediation practices in Kosovo. There will be a summary of the ways in which traditional mediation mechanisms operated during the period of Yugoslav socialism of the 1970s and how these were incorporated, advanced or rejected by the overarching state structure of the time. This can be illustrated briefly by the mass reconciliation initiatives of the early 1990s, which took recourse to Albanian customary law, interpreted as embodying both an ethnic nationalization and modernizing process at the time (Reineck 1991, 1993). The history of the mass reconciliations in the early 1990s offers interesting insights into the ways in which justice was self-administered in terms of recourse to tradition, yet also how this was part of a social movement that lend itself to state building in terms of ethno-national cohesion only (Clark 2000). These events have met the interest of many national and international scholars (Pirraku 1998, Schwandner-Sievers 2001, Luci 2014, Ströhle forthcoming), however little is known about the extent to which cultural mediation principles have been utilised and perpetuated in these processes, and if so, whether such culturally informed mediation practices reached out to, and integrated, local community members who were not Albanian speakers. This study is particularly interested in exploring whether traditional mediation practices play, or should, or could play a role, at local community level in the decentralization context of Kosovo today.

This paper has been organised in three parts. Firstly, the introduction presents the role of traditional mechanisms of conflict regulation within the process of power devolution to local institutions questioning whether these local mechanisms provide a resource or form an obstacle for enhancing interethnic relations. The first section describes the influence of local traditions of mediation and reconciliation. Specific attention has been paid to the local knowledge and universal prerequisites of reconciliation. The parameters of traditional mediation and reconciliation in Kosovo which could be potentially used for the purpose of inter-ethnic peace-building and local examples of reconciliation are presented. The second part introduces an overview over local autonomy and the state under Yugoslav socialism and describes the nationalisation of reconciliation movement through the anti-blood feud campaign in 1990-1992s. The last section offers insights on reconciliation in contemporary decentralised and multi-ethnic Kosovo.

## Traditions and local knowledge of mediation and reconciliation

Traditional Albanian mediation practices are often subsumed under the so-called term Kanun<sup>2</sup> in reference to a centuries-old set of customary laws, a very rich historic source including practices and prescriptions for the resolution of intra-community conflicts. For Kosovo during the 1980s, social anthropologist Janet Reineck pointed out that, for Albanians, the customary code represented “the ultimate authority on the ‘true’ Albanian tradition, an ideal code of social order and the way things used to be” (Reineck 1991, 40). Historically, the code advised to mediate conflicts through the appointments of respected intermediaries by the village elders, called in the language of the Kanun as the “guarantors of the blood”, or, in Albanian, *Bestari*. They were regarded in the villages as the representatives of the so-called “reasonable people” (Gjeçovi 1933, 82; cf Fox 1989, 165). Kanun in its best-known and printed version is based on ethnographic collection in Mirdita region and originally published in 1933 by a local Franciscan priest. Village authority structures include members of the community according to a hierarchical order and consist in the Elders of the village, the Minor elders, the Chiefs of the Clans, and the House of Gjomarkaj. According to the code, every village has the Elders of the Clan, who are entitled to gather the village’s assembly (Gjeçovi 1933, cf Fox 1989, 205). The Minor Elders represent the voice of the people and are part of the fines’ imposers (Gjeçovi 1933, cf Fox 1989, 205).

Chieftainship represents a hereditary position, according to which every chief is the head of the clan and exercises its authority over his own clan (Gjeçovi 1933, cf Fox 1989, 204). Small conflicts focused on a single village were solved by the Elders of the same village, while for questions regarding the whole region general assemblies were formed according to the principle “every house represented by a man” (Gjeçovi 1933, 104 cf Fox 1989, 192). Traditional practices of mediation in the villages envisaged also other roles part of the judgement process: the jurors (*Poronik*), the informer (*Kepucari*), and the examiners of the informer. The informers were entitled to “reveal someone’s crime, such as secret thefts or unavenged murders” (Gjeçovi 1933, 98 cf Fox 1989, 196), while the task of the examiners of the informer was to “make the necessary investigations about the accusations of the informer by asking detailed questions and being attentive” (Gjeçovi 1933, 98 cf Fox 1989, 208).

In northern Albania, where the same code applied, it is apparent to the present day that respectability is one of the fundamental criteria for the designation of the Elders as peace makers.<sup>3</sup> In order for their decisions to be headed, their voice has to carry weight and authority. Individual reputation is their greatest social capital. It is based on an acknowledgement, in their community, of their experience and knowledge of how to conduct trials. Even though often illiterate, the respect and reverence towards the Elders is based on their honest and impartial judgments. They have to earn such reputation and a person’s good mediation skills become known, locally. This paper would like to suggest that social reputation and respect for those who set out to mediate disputes in local settings have been one of the most important preconditions for success. In traditional context, status recognition was embedded in the social order as well as acknowledged on the basis of individual conduct. Can this still be guaranteed in the same ways today in the context of Kosovo?

## Local knowledge and universal prerequisites of reconciliation

Although peace and conflict scholars have raised several questions regarding the notion of reconciliation, it remains the ideal outcome aspired to in post-conflict processes of state-building and peace-building. In dealing with the past, nationally or internationally driven endeavours to advance transitional justice in post-conflict communities have seen the incorporation of traditional mechanisms for conflict transformation at the local level in many cases. For example, truth commissions in South Africa, Rwanda, East Timor, Colombia and other cases, typically work side by side with official institutions yet are shaped and culturally significant by the specific culture of the place (Macdonald 2013). The *Gacaca* court model in Rwanda is an example of traditional community court system at the local level which served the promotion of reconciliation through a restorative approach (Sriram and Pillay 2009) or the *mato oput*, a clan focused reconciliation ceremony in northern Uganda. The following section aims to identify those elements which characterise reconciliation, universally, as conceptualized by different leading scholars, and applies these to the Kosovo case. While taking into account Kosovo's specificities, the following analysis goes beyond a Huntington's "forgive and forget" dilemma in dealing with the past (Huntington 1991, 211) and relies on Lederach's (1997) core principles of truth, mercy, justice and peace as the core prerequisites constituting any reconciliation process:

Truth is the longing for acknowledgment of wrong and the validation of painful loss and experiences, but it is coupled with Mercy, which articulates the need for acceptance, letting go and a new beginning. Justice represents the search for individual and group rights, for social restructuring, and for restitution, but it is linked with Peace, which underscores the need for interdependence, well-being and security (Lederach 1997, 29).

Developing the claim that any successful reconciliation must include mechanisms for compensation and rapprochement, in terms of post-conflict reconciliation in Kosovo, inter-ethnic relationship building is supposed to increase mutual comprehension and the level of respect between the different ethnic groups (Burema 2012,13). Several authors emphasise the need to build relationships by building trust among conflicting parties. According to the preeminent scholar Johan Galtung, the founder of peace and conflict studies, reconciliation consists in a process of "healing the traumas of both victims and perpetrators after the violence, providing a closure of the bad relation." (Galtung 2001). Assefa emphasises the need for negotiation, mediation, adjudication, arbitration and, most significantly, an existing will of the involved parties to find a solution and recognise responsibilities:

*The essence of reconciliation is the voluntary initiative of the conflict parties to acknowledge their responsibility and guilt... the parties are not only meant to communicate one's grievances against the actions of the adversary, but also engage in self-reflection about one's own role and behaviour in the dynamic of the conflict (Assefa 1999).*

Lederach, in contrast, highlights a synthesis of two components as enablers of conflict transformation: focus and locus. The focus has its range of action in the future and consists in creating new connections and relationships among previous opponents. The locus looks at the present and acts as a "space, a place or location of encounter, where parties to a conflict meet." (Lederach 1997, 30). The relationship between the parties is the basis of the conflict and its long-term solution. The reconciliation processes are therefore built on mechanisms that engage all actors in the conflict in an attempt to re-establish an equal relationship (Lederach, 2004). Also

for Kriesberg reconciliation represents an experience pertinent to a relationship, which can be transformed or brought back into a satisfactory relation (Kriesberg 2001). Hayner's definition of reconciliation involves three main dimensions. Firstly, it addresses the opponents' attitude in dealing with past; secondly it considers if their attention is still focused in the past or has turned to the present; and thirdly it takes into account whether contradictory interpretation of the past have been harmonized into a sincere collective history without distortions. More recently, questions have been raised by different scholars about the suitability of transitional justice as a universal approach, reconsidering it from a local implementation (McEvoy and McGregor 2008, Shaw and Waldorf 2010, Hinton 2011).

Above theoretical considerations regarding universal prerequisites of reconciliation suggest that local traditions in Kosovo might provide parameters for self-regulated reconciliation purposes and that traditional culture can provide the means to support this process. Deep culture is central also to Galtung's account of social cosmology, in which "a web of notions about what is true, good, right, beautiful, sacred" constitutes the long-established values of a society (Galtung 2000, 33). The adaptation to cultural features of both parties of the conflict, as part of the mediation approach, might indeed straighten out reconciliatory outcomes. Converging towards Galtung's and Lederach's position, this study identifies four specific traditional elements which might facilitate inter-ethnic integration in Kosovo. Among those, a respectful reputation and social trust seem to be the most relevant; the others are related to questions of the role of a third party and compliance with an agreement reached. The following section explains these culturally specific parameters and their potential appliance in more details.

### **The parameters of traditional mediation and reconciliation in Kosovo**

The aim of this section is to elaborate the research findings, which lend support to the claim that there is a set of specific parameters characterizing mediation practices in Kosovo. These elements, expression of Kosovo's traditional values, could be potentially used for the purpose of inter-ethnic peace-building. They encompass: a) third party neutrality; b) respectful reputation; c) social trust; d) compliance with an agreement.

- (a) Third party neutrality is marked by impartiality, which traditionally represented a necessary requirement for the Elders who administered the procedures according to the customary law, obliged to oath-taking by swearing on their unbiased judgement before their announcement.<sup>4</sup> The procedure is indeed similar to the current mechanism of mediation, envisaged in the Kosovo Mediation Law 03/L-057, which foresees a third party intervention before addressing the judicial system. By adopting the law on mediation, the Assembly of Kosovo pays tribute to the enduring process of mediating between non-state parties, as to reach an agreement or reconciliation, for the purpose of regulating, organizing, functioning and resolution of disputes in an effective way through mediation, honouring the historic tradition of mediation in Kosovo, as well as improving justice system in Kosovo (Assembly of Kosovo 2008). 'Mediator' is the third neutral party, authorized to mediate between two parties aiming to resolve disputes. According to the

regulation on the selection of participants in the mediation training, mediators have to act impartially, “non-siding or favouring and refraining from siding with one of the parties involved in the dispute, and their interests and opinions which they present on the resolution of their dispute” (Assembly of Kosovo 2016).

- (b) A respectful reputation, conceived as moral power, represents an essential characteristic for achieving an estimable social authority. Besides the standardized requirements, also for the current law on mediation social reputation criteria plays an important role, making the high reputation in society one of the fundamental requirements. In this direction, Article 20 on the conditions for the selection of the committee indicates at point c, that its members should “enjoy high reputation in the society” (Mediation Law, Article 20, Assembly of Kosovo 2008).
- (c) Social trust is another key element of the mediation process. The firm belief in the integrity of the mediator combined to the full confidence and reliance are essential components for establishing a reliable relationship. “A confident expectation in somebody represents a distinguishing characteristic of the Albanian culture”, through these words, pater Don Lush Gjergji, Albanian catholic priest, general vicar of Kosovo and activist of the reconciliation movement, involved in the Kosovo-wide reconciliation movement among the Albanians in the early 1990s, explained the significance of the notion of social trust. The activist of the movement both put the traditional Albanian concept of trust to good use and were unconditionally trusted by the families in conflict. Often they were referred to as people “who knew much more, who come for good reasons, who wanted the cessation of hostilities for people’s good”.<sup>5</sup>
- (d) The forth element, compliance of the agreement indicates acting according to the binding promise. This kind of attitude is mingled with the concept of *besa*, which has been described as the highest moral value among Albanians. The term indicates the given word of honor, a sworn oath, assurance of the truce and protection. Delineated as a first step mechanism for establishing reconciliation between conflicting parties, *besa* is perceived as sacred and its infringement is inconceivable and extremely dishonourable. As foreseen by the customary code, “the law requires a negotiator for the truce; to agree to a truce is the obligation of an honourable man” (Fox 1989, 166). *Besa* served its purpose also during the mass reconciliation of the 1990s as the essential traditional ingredient which sealed national forgiveness. In Don Lush Gjergji’s own words: “Nobody ever broke the word of honour. That was our biggest achievement. It was not just an euphoric moment. We reached the minds and the hearts of the people”.<sup>6</sup>

Clearly, local Albanian cultural knowledge on mediation – which encompasses universal features for advancing reconciliation, has been utilised in local reconciliation processes in the region. However, have these processes been limited to one ethnic side in the Kosovo conflict only or did they reach beyond ethnic divides?



### Local examples of reconciliation

The contribution of international NGOs has been of paramount importance for the re-establishment of inter-ethnic relations and the promotion of inclusion. Operazione Colomba, a non-violent peace-corp, has worked on inter-ethnic reconciliation in Gorazhdëvc/Goraždevac, a Kosovar village characterized by severe ethnic tensions between the Serb and Albanian communities from 2004 till 2010. Aware of the fact that, before the war, the two communities were characterized by good relations, and there were still people who remember the good times they lived together, the NGO pushed for dialogue and reconciliation. The organization has set up several groups of young Serbs and Albanians in which various activities aimed at rebuilding a Kosovo integrated society. In the Serb-inhabited enclave, Operazione Colomba has managed to create an opportunity for encounter, dialogue and reconciliation tackling the roots of the conflict by working on the causes of the conflict and on the transformation of the relations between the parties.

The compliance with local traditions, the high level of trust and mutual understanding have recreated an atmosphere of peaceful co-existence between the conflicting parties. As the project coordinator explains, “firstly perceived with suspicions as internationals, the local population soon understood that we would not have abandoned them. We did not take sides, we supported Kosovo Albanians in the beginning and then the Serb community when the conflict changed. The reliance on traditional means of conflict resolution was essential to our work. We appealed to the concept of trust, *besa*, ‘the given word’, and we gained respectability through regular family visits in the village. The aim was to reactivate those social structures, which were in use before the conflict. The biggest challenge consisted in making the communities believe that these could be rebuild again.<sup>7</sup> The organization served as a mediation party and implemented several communicative activities across conflicting groups including both Serb and Albanian community members. The mediation process was led directly by the NGO and local consultants, following specific principles, such as: a) grant groups the time needed to overcome difficulties and to operate efficiently; b) research the historical and personal common elements among the members in order to use the cultural elements as a bridge between the parties; c) establish common goals for all the parties involve; d) use names and titles in which each group is recognized in order to validate and officially recognize the identity of each one; e) clarify their viewpoints and conflicting goals and bring out the different positions about the conflict; f) generate inclusive and creative solutions (Zurlini Panza, 2013).

Another example that combines support for local communities’ needs and reconciliation efforts comes from the RTM, another Italian NGO operating in the area of Klinë/Klina. With the cessation of the war and the slow normalization of relations, there was a clear need to resume relations between Albanians and Serbs. This time ‘the glue’ was local economic development. In 2006 the INDIRA association was established as an open space for dialogue by Albanian and Serbian women who periodically met throughout the years. The inter-ethnic meetings continued and in 2013 the cooperative EVA was founded by the same group of women. EVA’s economic activity is based mainly in the production and assembly work of meat, a traditional source of income for both communities in the area. Referring to cases of reconciliation in the past, which involved traditional references, a World Bank report of 2000 reveals the ability of blood feuds reconciliation councils to



hinder an inter-ethnic conflict, related to land's property in the village of Cërnice, breaking out between an Albanian and Serb family (World Bank 2000, 35).

Don Lush Gjergji, collaborator of Anton Çetta, recalls that, in the 1990s, almost 30 cases of interethnic conflicts were reconciled, mainly relating to incidents of circulation and communication (Don Lush Gjergji, personal interview 28 October 2016). Even though it had only limited consequences due to the restricted access to the area, the reconciliation campaign included also Preševo valley, the Albanian inhabited areas of South Serbia encompassing Preševo, Bujanovac and Medvedja (Refworld 2014). Further research, ideally based on the collection of oral history, might shed additional light on the number and mechanisms of community mediation procedures conducted at local level and bridging the ethnic divisions. Here it suffices to have established that both history and contemporary evidence exists which suggests that these traditional mediations mechanism do not necessarily have to stop at the boundaries of ethnic difference in Kosovo.

## **Local autonomy and the state in Kosovo: reconciliations under Yugoslav socialism**

Since the constitution of the Prizren league in 1878 and until the conclusion of World War II, no judicial organization sanctioned by a state was established at the local level in Kosovo.<sup>8</sup> As result of Ottoman indirect rule (Schwandner-Sievers 1999, 146) the political, social and judiciary aspects of community life were regulated through the application of local customary law by the so-called *pleqësia*, the councils of Elders. Local forms of autonomy were reintroduced under socialist Yugoslavia, especially with the 1974 Constitution, which granted a high degree of freedom to the autonomous socialist provinces of Kosovo and Vojvodina. Even if under strict control of the Communist party, feeble forms of local autonomy were granted during post-second World War Yugoslavia. In her study about anti-blood feud campaign, (Ströhle forthcoming) observes that, in late socialist Kosovo, high moral authority represented an important characteristic for the members of local reconciliation councils. Communist representatives selected the councils' members according to solid ideological and political qualities based on elevated individual reputation in the village and their complete acceptance by the leadership of the municipality.

Ströhle's analysis offers also interesting insights in exploring the rejection of existing institutions and the lack of trust towards official state institutions during this period. For example, between 1963 and 1964, in the municipality of Sërbicë/Srbica, one of the most underdeveloped areas of Kosovo, 11.000 complaints were collected. From the analysed reports emerges a clear lack of trust of the Albanian rural population, who preferred to solve their disputes in family and social affairs by relying on traditional methods of resolution (Ströhle forthcoming). On the one hand, the Yugoslav representatives in Kosovo condemned the influence of patriarchal social structures, associating them with the "primary obstacles to the socialist transformation of society" (Ströhle forthcoming). On the other, many Kosovar functionaries, regardless of their nationality, were educated on the basis of the same patriarchal values, which they reproduced when dealing with the local population. With the aim of reinforcing the socialist rule, even a consolidation of traditional practices into self-management system occurred in the mid-1960s (Ströhle forthcoming).

Kosovo regime officials brought traditional values into play and gave them a socialist pretence. For example, this is evidenced in the traditional rules utilised by the socialist government when it established reconciliation councils at village level, which amounted to 450 in 1966 (Vraniqi and Pupovci 1968, 574). "The law of the wise people" was applied under the influence of official institutions during Yugoslav times as an expression of the population's mistrust on the ruling class (Vraniqi and Pupovci 1968). With the constitutional changes that were introduced between 1968 and 1972, the Autonomous Regions were almost identified with the republics in terms of judicial competencies. In 1969, Kosovo issued a constitutional law which amounted to the position of the Supreme Court as an institution empowered with similar duties and rights to those of the republics, which performed its function lawfully in the territory of Kosovo. In 1970, the Socialist League was appointed as legitimate intermediary in the blood feud reconciliations of thirteen villages of the Rugova mountains (Ströhle forthcoming). With Ströhle we can establish that, increasing state interventions during the Yugoslav Socialist period did not replace but, partly, reproduce traditional mediation mechanisms. As the next section will demonstrate, official institutions have continued to take recourse to cultural knowledge, such as in the years of increasing interethnic hostility, the early 1990s.

### **The nationalisation of reconciliation: the anti-blood feud campaign of 1990 to 1992**

Similarly to the traditionalist attempts of late Yugoslav socialism, a re-traditionalization process characterized the national anti-feuding movement in the years preceding the conflict. The reconciliation campaign lasted for two years: from the 2<sup>nd</sup> of February 1990 to the third Assembly of the movement on the 17<sup>th</sup> of May 1992. The first steps of the reconciliation movement were initiated by the Action of Youth for Reconciliation of blood revenges, which progressively developed its actions and was transformed into the Albanian all-National Movement for Reconciliation of Blood Revenges and Disputes.<sup>9</sup> Milosevic's suspension of Kosovo's autonomy combined with increasing Serbian hegemonic rule over the territory heightened interethnic tensions and accelerated the forthcoming conflict. Guided by Anton Çetta, a university professor and folklorist by profession, the large-scale movement contributed to reinforce and sustain the legacy of traditional practices, which were consciously mobilized and revitalized with the aim of reaching national pacification.

Customary based rituals were reinvented deliberately and used to establish internal appeasement among Albanians. When defining the concept of 'invented traditions', Hobsbawm differentiated among those creating common identity and unity, those justifying institutions and social positions, and those which are able to mobilise people in specific situations (Hobsbawm 1983, 9). All these functions applied to the mass reconciliations in Kosovo. As Schwandner-Sievers (2012, 21) asserts, there was an appeal to the traditional frame of reference, used not only to extend the cultural distinction between Kosovo Albanians and Serbs, but also to nourish the Albanian sense of common belonging in contrast to the peril of the foreigner. The fundamental role played by reasserted traditions in the beginning of the 1990s was noted also by the historian and blood feuds activist professor Pirraku, who puts forward the view that:

*Political development in Yugoslavia indicated the coming of bloody conflicts between the Albanians and Yugoslavs, so that before an armed war a message was coming from the tradition: the creation of an internal agreement and stopping revenge bloodshed. In the*

*function of this tradition, which has lived in the memory of the Albanians, on 24 February, 1989, the miners initiated the demand to begin with blood reconciliation in Kosova (Pirraku 1998, 12).*

### **Traditional culture against the enemy**

The influence of cultural traditions has been analysed also by Prishtina social anthropologist, Luci, who describes it as “the essential ground for the Albanian emancipation, which relied upon expanding the meanings and practices of forging local kin and other connections of relatedness, through customary codes of honour, to include reconciliation, honourable manhood, mediation and memory, as a basis for a national movement” (Luci 2014, 93). Particularly widespread in the rural areas, the mobilization of the common past led to a re-patriarchalization and re-traditionalization process, which furthermore increased the distance with the official legislative institutions. Besides traditions, at that stage it was clear that national belonging and internal unity among Albanians was essential, in order to face their historic enemy. Serbian nationalism inflamed the precarious situation. In a condition of state emergency and the persistent interference of the Yugoslav police, a blood agreement was necessary in the function of national unification. Clark provides in-depth analysis of the use of national symbols for the purpose of national consolidation, suggesting that:

*They [Albanians] consequently resorted to the ancient ethos of resistance against an enemy that was attacking their national, workers' and human integrity. And the thing that gave them power, that integrated their internal strength, was their solemn vow to defend the truth. There awoke among them that supreme expression of the traditional Albanian moral code – the oath, the besa. For no one could take from them that which for Albanians is holy above all: the word of promise, the besa (Clark 2000, 50).*

Reconciliation was invoked in the name of the Albanian people, in the name of Albanian all-national unity, in the name of the Albanian national flag, in the name of the unification of the ethnic Albanians' land of residence with the ethnic homeland, Albania. A traditional oath was repeatedly brought up during the public reconciliation ceremonies. The following vow, pronounced at Permalina of Vushtrria in May 1991, is a good example of the movement's appeal to national solidarity and its integrative aims:

*I swear on the mother land and tongue!  
I swear on the Albanian pledge!  
I swear on the blood of our martyrs!  
A swear on our National Flag,  
That we give the Albanian word,  
That we shall never-ever have again-  
Killing amongst us  
No blood revenge! (Pirraku 1998, 18)*

The involved activists' approach was predominately based on fieldwork in the villages. Their knowledge of the local culture was of paramount importance for these mediation

practices to succeed. Luci draws our attention to several attempts made by anti-blood feuds activists in vain, oftentimes rejected by the families until they referred to those local authorities and elders who were knowledgeable of the local traditions and who had their pulse on the situation, making “university professors and academics the public face of reconciliation but relied heavily on the requirements of local traditions” (Luci 2014, 102). Increasingly institutionalised as an instrument within the ethno-national peace-building and mobilisation efforts, the movement concluded its actions with the Third Assembly on the 17<sup>th</sup> of May 1992.<sup>10</sup> Pirraku observed that:

*As much as we know about the concerns of our people, this Movement should continue, but now and on in an institutionalized way, perhaps as an activity of conciliation councils in the framework of local government. This is the way to continue until our national courts become independent’ (Pirraku 1992).*

From February 1990 until May 1992, 196 assemblies of blood reconciliation took place, attended by 1,535,680 people in which 13,228 cases of blood revenges, cases of injuries and various community hostilities were presented. All in all, the movement was able to successfully solve 2,952 reconciliation cases.

## **Reconciliation in contemporary, decentralised Kosovo**

Since the end of the 1999 war, inter-ethnic integration has progressed particularly in the southern, less in the northern, parts of Kosovo. As Burema proposes, “if reconciliation is about establishing mechanisms for peaceful dialogue and building trust between communities, then the first step must be the cessation of conflict and an agreement on the basic rules within which such a dialogue will take place” (Burema 2012, 9). This author suggests that the fact that Serbia has been gradually slackening off power in the south, has significantly contributed towards the peace-building commitment, creating a “greater potential for reconciliation than in northern Kosovo” (Burema 2012, 9).

However, although the Law on the Protection and Promotion of the Rights of Communities and their Members in Kosovo (Assembly of Kosovo 2008) envisages to “promote a spirit of peace, tolerance, inter-cultural and inter-religious dialogue, and support reconciliation between communities” (OSCE 2015, 6), according to the OSCE’s last assessment on community rights in practice, such engagement is predominantly driven by international organizations and donors only. The main accomplishment at the central level lies in the establishment of a Working Group on Dealing with the Past and Reconciliation in 2012. However, the working group did not gather periodically, as planned, nor did representatives of the Serb community participate, attaining thus only slight advancement in the implementation of the Strategy on Transitional Justice (OSCE 2015, 6). Much still needs to be done, especially at the local level, in order to achieve the aspired outcomes. The following section discusses the extent to which the decentralisation process offer openings for advancing cross-community reconciliation in Kosovo.

## Decentralisation and multi-ethnicity

After Kosovo's declaration of independence in 2008, the decentralization policy was supposed to positively impacted on the integration of ethnic communities at the institutional level, thus enriching the multi-ethnic characteristics of Kosovo (Beha 2011, 39). Decentralization was one of the conditions of status negotiations for Kosovo and was foreseen in the Comprehensive Proposal for the Kosovo Status Settlement or the so-called Ahtisaari Plan.<sup>11</sup> On the 15<sup>th</sup> of June 2008, the Kosovo Constitution entered into force, perpetuating the Ahtisaari Plan in regard to decentralisation as the tool of choice for the management of ethnic communities. The Constitution enhances Kosovo's multi-ethnic composition, focusing on minority rights and their participation, with a particular regard towards Kosovo Serb and other communities. The implementation of the decentralization process has generated a lot of debate since the beginning of 2002, mainly by politicians but also by international organizations, including UNMIK, the OSCE Mission in Kosovo, the Council of Europe, etc (Tahiri 2008, 15).

One of the most interesting scholarly approaches to this has been proposed by Kostovicova, who suggests a human security perspective taking into consideration the bottom-up perceptions of both communities. Challenging the local embracement of the Ahtisaari Plan, which failed to address the economic condition of Kosovo, the author puts forward the idea of legitimacy deficits and argues that "consideration of a plurality of views in each community and a multiplicity of their concerns in the process would have ensured a more auspicious start for Kosovo's new international administrators" (Kostovicova 2008, 642). A controversial matter in the management of decentralized policies is related to Zajednica, the Association of Serbian-majority municipalities. In accordance with the European Charter on Self-government and the Kosovo legislation, formally the deal was considered a successful result stemming from the Brussels Agreement of 2013. De facto, it increases the fear of Serbian interference in Kosovo's affairs, thus becoming a source of polemic and disputation by the Kosovo opposition parties, who have firmly protested against Zajednica association. The common perception among Kosovo Albanians is generally to affiliate decentralisation with the political process of the creation of Serbian majority municipalities rather than considering it as a seed for democratic governance at the local level. On the other hand, political parties at the central level adhere to the decentralization process due to its inference with the Ahtissari Plan and not because they support the policy (Zeqiri 2010). Kosovo Albanians argue that the association would function as an autonomous entity, in which justice would be left in the hands of local governors defined according to 'ethnic' borders established by the decentralization process.

The most radical criticism towards Zajednica was led by Vetëvendosje party, which has intensively condemned the association during parliamentary sessions claiming that it would generate ethnic division. Besides strengthening the multi-ethnic state-building process, the decentralization policy is seen as the only chance of paving the way for a successful coexistence of Serbs and Albanians at local level and their integration into the institutional system (European Parliament 2010, 9). Although ethnic hostilities in Kosovo are still an issue and inter-communities' cooperation is rather scarce, the legal and institutional framework set by the decentralization process might play a decisive role in the remote future in terms of peaceful community life (Loew 2013, 21). The following paragraph explores the turn to traditional mechanisms of conflict resolution and their usage within the decentralisation's context, questioning whether this can encourage inter-ethnic peace-building at local level, or not.



## **Institutionalization of traditional knowledge into the modern state-building process**

In terms of institutionalization of local community organization after Kosovo's independence, an interesting example relates to the administrative instruction No. 27/2012, which established the Municipal Community Safety Councils (MCSC). The councils function as local advisory bodies in cooperation with central institution in order to create a harmonious social environment within local communities. The aim of the safety councils is to improve these communities' living conditions and to solve their problems by fostering coordination between safety forums, police, local and international partners. The councils are envisaged as safety bodies and their actions are based on preventing crimes and other disorders and events that could endanger public safety within local environments.

Another observable example of the cooperation between municipalities and the social organization in local communities is the administrative instruction on the establishment of local councils, adopted in 2013 by the Municipal Assembly of Peja/Peć. Based on activities, which ordinarily are exclusively the competence of municipalities only, this regulation is intended to coordinate the cooperation between Peja/Peć municipality and the local councils, as established by the Law on Local Self-Government. The instruction regulates the cooperation between the municipality, villages and urban settlements through the creation of local councils as bodies supporting the municipality. According to an interview with a former representative of Peja/Peć local council, they have a positive impact in the community thanks to the extensive consultations, increased transparency, accountability and citizen's participation in the decision-making process.

Those bodies are envisaged to be established in every village and their functioning to a great extent relies on the long established tradition of village gatherings.<sup>12</sup> The local councils are responsible for the social development of the respective local communities. Specifically they are in charge for facilitating communication with the municipality and for giving impulse to new initiatives or changing acts in the competence of the municipality. Additionally they organize humanitarian activities in support of the inhabitants of the community, structuring cultural activities, initiating other activities of interest for the local community, especially addressed to youth, women and to the non-majority communities. More research is needed into the details of how cultural specifics are perpetuated in the newly developed structures of representation and conflict mediation, there are suggestions that, in general, these lend themselves to such perpetuation. This becomes even more clear in regard to the new legal framework applicable.

### **The Law 03/L-057 on mediation**

Albanians use the word *ndërmjetësim* to refer to the concept of mediation, which literally means "a tool between two parties". In the context of the decentralisation policy, this section discusses the extent to which the law 03/L-057 on mediation resonates with the local, customary tradition? Is traditional mediation now officially enshrined by law? After the adoption of the law, 7 different mediation centres emerged and 170 mediators have been trained.<sup>13</sup> The mayor of Gjakova/Đakovica sustains that the law represented the institutionalization of an old-centuries tradition. According to Mr. Lekaj, recourse to mediation practices for the implementation of peaceful conflict resolution enshrined by law represents a new legal institution in Kosovo (Municipality of Gjakova/Đakovica 2012), although such practices have a long history in Albanian

customary law contained in the Kanun. The mayor affirms that “this step is of great importance, because it awards an institutional form to an activity in use from a long time ago, stemming from the people, of which we have always been proud of” (Municipality of Gjakova/Đakovica 2012). Law 03/L-057 also envisages a specific code of conduct for the role of a mediator in contemporary Kosovo. Article 3 regulates the principles of self-determination, according to which each person who practices any form of mediation, licensed by law or otherwise, should practice mediation in accordance to the Code of Conduct. Any violation of it can be referred to the Mediation Commission. Self-determination, as the main principle foreseen by the mediation law, is the ability of parties in mediation to reach a voluntary agreement, which is not imposed, by making a free choice based on the information related to the process and to the result.<sup>14</sup>

### **The role of civil society: Partner’s Kosova Contribution**

The successful adoption of the mediation law by the Assembly of Kosovo was supported, among others, by Partners Kosova, a Center for Conflict Management funded in 2001. The aim of the NGO is to build sustainable local capacity to advance civil society and a culture of peaceful conflict resolution, through a mediation methodology that combines modern mediation concepts and traditional techniques of reconciliation practices. Partners-Kosova’s mediation services addresses disputes related to family, property, business, and interethnic problems, while, at the central level, the Center is focused on the integration of mediation practices into Kosovo’s judiciary system. According to the experience of the Center for Conflict Management, the combination of modern and traditional techniques proved to be successful for the reconciliation of several cases and their streamlining in the court institutions. The approach used by the Conflict Management Center adopts several traditional elements as reference points. One of these relates to the role of the mediator, who regularly visits both families, in order to discuss the dispute with both parties in details.

The aim is to prevent an escalation of the conflict through listening and reviewing the case and, eventually, achieving a common understanding. Often traditional mediation involves also the village council of elders or religious representatives such as the Imam (Refworld Kosovo 2013). The values upon which Partners-Kosova build the particular mediation model, reflect the parameters of traditional mediation, consisting in the respect for elders and community leaders, who usually enjoy high social reputation. Additionally, mediators act as third parties and regularly visit litigants at their homes, in order to initiate a relationship with them. The gain of trust and a reputation of reliability represents another key element of the reconciliatory process, which heightens chances of success, including in a number of small cases of local, interethnic conflict. (Partners Kosova).



## Conclusions

To sum up, this study suggests the persistent relevance of traditional forms of mediation and cultural knowledge in the new state-building process in Kosovo. Rather than traditions representing an obstacle to the modernization process, we established their correlation with universal principles of reconciliation in their specific, local cultural form. As such, they might constitute a potential resource for modern state building and, as our historical overview demonstrated, have been utilised as “trust building measure” (Ströhle forthcoming) before - albeit pre-dominantly, although not exclusively - within an ethno-nationalist framework only. Already from the 1980s, recourse to traditions is to be considered as preservation of customs and norm regulations, set in motion against external challenges (Reineck 1991, 1993).

Most significantly, we found that the Law 03/L-057 on mediation currently already perpetuates socio-cultural customary principles of mediation by institutionalising traditional knowledge in the ways it integrates the role of the mediator as a neutral third party. Apart from third-party neutrality, we established the following traditional parameters as potentially beneficial for promoting inter-community reconciliation: high respect and reputation of the mediator, shared by the conflicting parties; social trust and compliance with an agreement based on local notions of honour. Our cursory insights into currently existing applications of traditional mediation techniques in local conflict resolution, including across the ethnic divides, further suggest that these might have heightened chances of success if they generated and inspired by the local cultural knowledge of both conflicting parties.

This research, based on a limited number of days in Kosovo, is not conclusive and has generated more questions in need of further investigation than answers. Ideally it would be followed up by an ethnographically based, comparative analysis of multi-ethnic villages aimed at better understanding the conditions under, and ways in which, traditional mechanism of conflict resolution are taken recourse to and the extent to which this is put into the service of inter-ethnic conflict resolution at the local level today. This study has established that such a wider project would be most valuable in order to analyse the composition of the local mediation councils, the types of conflict and the forms of agreement reached, in ethnographic detail. Further exploration of the Serb traditions would be of interest, addressing the extent to which, in local inter-ethnic communities, these might differ or be the same. Continuing research would also extend the knowledge of how in history, one community might or might not have adapted to the other in their mediation practices.

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## (Endnotes)

- 1 "Opposition Campaign Risks Destabilizing Kosovo." Balkan Insight, October 2, 2015 <http://www.balkaninsight.com/en/article/opposition-campaign-risks-destabilizing-kosovo> (accessed 7 February 2017)
- 2 Albanian collection of oral customary law prescriptions, which were passed on from generation to generation until the 20<sup>th</sup> century. In 1913, the Franciscan priest Shtjefen Gjeçovi started to codify different parts of Lekë Dukagjini's code, and his collection was posthumously published in 1933.
- 3 Respectability is a fundamental criterion also for the activities against blood feuds carried out by Operazione Colomba in Albania. The Nonviolent Peace Corp guarantees a constant presence in Shkodër since 2010 coping with the phenomenon of blood feuds and its overall resolution.
- 4 Elders' neutrality was symbolized by a stone carried on the shoulders, a symbol of their integrity (Gjeçovi 1999, 103).
- 5 Author's interview with Don Lush Gjergji, 28 October 2016, Prishtina, Kosovo.
- 6 Author's interview with Don Lush Gjergji, 28 October 2016, Prishtina, Kosovo.
- 7 Author's interview with Fabrizio Bettini, 10 November 2016, Prishtina, Kosovo.
- 8 Established as the league for the defence of the rights of the Albanian nation in June 10, 1878, it represented the starting point of the Albanian national movement and increasing demands for autonomy against the Ottoman empire.
- 9 The initial push started with young students from Peja, after their release from prison. Some of the initiators were: Have Shala, Brahim Shela, Lulezim Ethemaj, Myrvete Dreshaj and Adem Grabovci.
- 10 An example of the national involvement in the large scale campaign relates to the extensive diffusion of the name 'Pajtim', meaning reconciliation, for new born babies in the beginning of 1990s.
- 11 The Ahtisaari Plan was drafted by the UN Special Envoy Martti Ahtisaari and submitted to the UN Security Council as the Comprehensive Proposal for the Kosovo Status Settlement.
- 12 Author's interview with Elbert Krasniqi, 25 October 2016, Peja/Peć, Kosovo.
- 13 Author's interview with Lindita Ademi, 25 October 2016, Prishtina, Kosovo.
- 14 Author's interview with Lindita Ademi, 25 October 2016, Prishtina, Kosovo.



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## **PART V:**

# **Security Considerations: Domestic and Regional Perspectives**





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# From Kosovo Liberation Army to Kosovo Security Force and beyond: The Question of Kosovo Armed Force

Giorgos Triantafyllou

## Introduction

The case of Kosovo is undoubtedly among the most ambitious cases of international statebuilding in the post-Cold War era. NATO's intervention and the subsequent establishment of the UN international administration in Kosovo, under the United Nations Mission in Kosovo (UNMIK), initiated the deployment of various different missions from leading international organisations aiming to rebuild, or create from scratch, all the necessary state institutions, with the long-term objective of an independent and sovereign Kosovo. Notwithstanding that this objective was not clearly articulated by any international agency in 1999, it was a shared understanding among western great powers that this was the case.

The concept of sovereignty has been widely discussed and analysed, both from the perspective of international law and international relations. According to Weber's well-known definition 'a state is a human community that (successfully) claims the *monopoly of the legitimate use of physical force* within a given territory' (Weber 1946, 26) and thus an independent and sover-

eign state consists of three elements, namely territoriality, violence and legitimacy. In essence, it is clearly understood that a state, in order to be independent and sovereign, must be able to protect and defend its territory, providing security for its citizens, through the use of violence that is the legitimate prerogative of the state's authorities. This is done through the establishment of credible and capable security institutions; most importantly through its national army and police forces.

However, the case of Kosovo brings to light a great paradox. In 2008, Kosovo declared its independence and was recognised as an independent state by many countries, including the majority of NATO members, with the exception of Greece, Romania, Slovakia and Spain. Ever since, local authorities together with international institutions have intensified their combined efforts towards institution building, and currently the local authorities have ownership and responsibility for many aspects of the state's life. However, eight years after Kosovo's declaration of independence and four years after the end of Kosovo's supervised independence Kosovo still does not have an army. Notwithstanding that there are several other countries worldwide that they do not have a standing army (e.g. Iceland, Mauritius, Monaco, Panama), applying Weber's definition to the case of Kosovo weakens the argument that Kosovo is a sovereign state, as Kosovo continues to depend on NATO's KFOR for its protection. Many prominent NATO member states involved in security capacity building in Kosovo, including the US, have continued to keep alive the 'promise' of a national army of Kosovo. Yet, until now this promise has not been fulfilled, and therefore Kosovo's statehood continues to be incomplete and contested. The ongoing debate on whether, when and how Kosovo will establish its own army is being intensified year after year, resulting in increased frustration among most of Kosovo Albanians.

The twofold question that this paper aims to answer is the following: *Why Kosovo has not developed its own Armed Force?* And, *how Kosovo could complete its security institution building through the establishment of Kosovo Armed Force (KAF)?* The paper's main argument is that, despite NATO's support and the evident progress in security capacity building in Kosovo since 1999, for three years now the security capacity building process in Kosovo remains incomplete. The discussion in this paper reveals that this lack of progress is the result of serious legal constraints combined with conflicting political agendas between the Albanians and Serbs in Kosovo. Thus, the government of Kosovo is currently found in the rather difficult position of having to decide how to achieve its proclaimed objective of establishing KAF, while maintaining internal stability in Kosovo. The paper concludes that there are three possible scenarios, all of which have their advantages and disadvantages. Trying to answer the question identified above, this paper is divided in three sections: the first section presents a brief historical account of the security institution building in Kosovo since 1999. The purpose of this section is not only to highlight the background of nowadays Kosovo Security Force (KSF), but also to explain where the current expectations of Kosovo Albanians stem from. The second section is an account of the ongoing debate on the transformation of the KSF, with references to both the legal and political arguments of the debate, as well as a discussion of NATO's perspective on the establishment of KAF. Finally, the third section presents three possible scenarios for the future of the KSF, explaining briefly the merits and risks of each one.

## Historical overview

### From Kosovo Liberation Army to Kosovo Protection Corps

On June 10, 1999, the UN Security Council (UNSC) issued UNSCR 1244, which soon became the blueprint for the international statebuilding initiative in Kosovo. The UNSCR 1244 authorised the deployment in Kosovo of a multinational civilian mission, with the participation of all relevant international organisations under the supervision of UNMIK. The mission's objective was to take up responsibility for the province, acting as an interim administration that would ensure Kosovo's 'sustainable autonomy' within the Federal Republic of Yugoslavia (FRY), while "overseeing the development of provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants of Kosovo" (UNSC 1999, §10). In addition, UNSCR 1244 authorised the deployment of an international military mission, which was assigned primary responsibility for all security-related issues during the international interim administration of Kosovo. Accordingly, when NATO's KFOR deployed in Kosovo, in early June 1999, its primary objective was to create a stable and secure environment on the ground, allowing the civilian international agencies involved in post-conflict Kosovo to pursue their statebuilding mandates. To do so, KFOR had to succeed, among others, in two highly important tasks: a. overseeing and regulating the swift withdrawal of all Serbian forces from Kosovo, and b. ensuring the disarmament, demilitarisation and reintegration of the KLA fighters (UNSC 1999, §9).

The first task, which was indeed the more straightforward of the two, was completed rather smoothly. On June 9, 1999, Lieutenant General Sir Michael Jackson, Commander of KFOR (COMKFOR), Colonel General Svetozar Marjanovic of the Yugoslav Army and Lieutenant General Obrad Stevanovic of the Serbian Ministry of Internal Affairs, signed the Military Technical Agreement (MTA) on behalf of NATO, the government of the Federal Republic of Yugoslavia and the government of the Republic of Serbia, respectively (NATO 1999a). The MTA took immediate effect upon signing and, being reaffirmed by the UNSCR 1244, became the bible of post-war security in Kosovo and the blueprint for NATO's authority on the ground, included, among other provisions, a detailed timeframe for the phased withdrawal of the Serbian forces from Kosovo. That timeframe was very closely followed and eleven days after the signing of the MTA, KFOR HQ in Pristina confirmed that "the withdrawal of the uniformed Yugoslav personnel [had been] completed approximately 12 hours ahead of the schedule set in the Military-Technical Agreement" (NATO 1999a).

The second task proved to be a significantly more challenging. Indeed, contrary to the withdrawal of the Serbian forces that was methodically regulated by the MTA, in early June 1999 there was no similar document to serve as a comprehensive guiding framework for the demilitarisation of the KLA. On the one hand, the MTA was exclusively focused on regulating the relations of NATO with the Serbian security forces and, on the other hand, the UNSCR 1244 did not provide any detailed course of action, as to how the KFOR should deal with the KLA, aside from underlining the demilitarisation of the KLA as an important responsibility for KFOR. Consequently, it was no surprise that NATO needed almost two weeks to reach an agreement with the KLA leadership and it was not until June 21, 1999, when Lt. Gen. Jackson of KFOR and Hashim Thaci of KLA, signed the agreement that initiated the demilitarisation process of KLA. The agreement became commonly known as the Undertaking and was, in essence, a compre-

hensive account of commitments and obligations that the KLA had undertaken regarding the disarmament of its fighters. In fact, although NATO had needed to exercise a combination of pressure and persuasion to get the KLA leaders to accept the agreement, it was made clear to them right from the beginning that the Undertaking “was not to be considered an agreement between two equal entities, but a vow to NATO” (Zaalberg 2006, 306).

More precisely, the purpose of the Undertaking was twofold. On the one hand, to contribute to the establishment of a durable cessation of hostilities and, on the other hand, to authorise KFOR to take all required measures, including the use of necessary force, in order to ensure compliance with the Undertaking, in view of creating a secure environment for everyone in Kosovo (NATO 1999b, §6). The Undertaking was structured in the same way as the MTA, outlining first a series of general obligations for the KLA, such as respect of the UNSCR 1244, renounce of violence, respect of and cooperation with the international military and civilian presence in Kosovo, refrain from all hostile and provocative acts in Kosovo or in neighbouring countries, public commitment to its demilitarisation, and facilitation of the deployment and operation of KFOR. In addition the Undertaking presented a delineation of the disarmament process of the KLA, which according to the agreement should have been completed ninety days after its signing. From that point onwards, all KLA fighters ought to stop wearing the military uniforms and insignia of the KLA (NATO 1999b, §23).

However, among the most important elements of the Undertaking were also two explicit commitments of the international community, which in retrospect can be understood as an attempt on behalf of the international community to appease local reactions to the demobilisation of the KLA. More precisely, through the Undertaking it was agreed that, while all KLA structures were in the process of dismantling, KLA was “committed to propose individual [KLA] members to participate in the [new] administration and police forces of Kosovo” (NATO 1999b, §25). For those KLA members it was agreed that they would enjoy ‘special consideration, in view of the expertise they [had] developed’ (NATO 1999b, §25). In addition, the international community committed to give due consideration to “the formation of an Army in Kosovo on the lines of the US National Guard in due course as part of a political process designed to determine Kosovo’s future status, taking into account the Rambouillet Accord” (NATO 1999b, §25).

Regarding demilitarisation of the KLA, KFOR had to face, right from the beginning of its deployment in Kosovo, two major problems. The first problem was the striking lack of any clear strategy on behalf of the international community as to how to handle the KLA; in fact there was no strategy at all. The essence of the UNSCR 1244 indicated that ‘the preferred policy in Kosovo was to remove the KLA from the scene entirely’ (ICG 2004, i), however, neither NATO nor the UN had devised beforehand any plans on how to do so. As Lt. Gen. Jackson argued, in 2000, “[the Undertaking] was a good thing as I had no policy, I had no direction, as to how to treat the [KLA] before that point” (Jackson 2000, 16). The second problem was the perception that the KLA fighters and their leaders had for themselves and, by extend, the role that they envisioned for the KLA in post-war Kosovo. In fact, KLA not only considered themselves as the undisputed winners of the war, but also believed to have won the right to ‘enjoy the spoils of victory’ (Zaalberg 2006, 304). Thus, the expectations of all KLA fighters, following the end of the war, was that Kosovo would be recognised as an independent state with its own army; essentially a legitimization of the KLA’s existence and its transformation from a guerrilla party to an organised security force. Therefore, the UNSCR 1244 was understood as a particularly unpleasant starting

point for the post-conflict era in Kosovo as, not only it called for the demobilization of the KLA, but also avoided to answer the Albanian calls for independence.

On September 21, 1999, KFOR confirmed that the demilitarization process of the KLA had been overall successful and without any significant deviations from the timetable stipulated in the Undertaking (NATO 1999c). Yet, the question of the former KLA combatants' reintegration into the Kosovo society had not been answered and the situation was evidently very fragile. The complete demobilisation of the KLA, which was the preferred course of action for both the UN and NATO, was directly opposite to the aspirations of the KLA leadership, who wanted to preserve KLA as 'the core of a future army' of an independent Kosovo (ICG 2000, 7). Eventually, after long and stressful negotiations between the KFOR and the political and military leadership of the KLA, an agreement was reached in September 1999. The agreement was signed by the COMKFOR Lt. Gen. Jackson, the Political Director of KLA, Hashim Thaçi, the NATO Allied Commander in Europe, General Wesley Clark and the Commander of KLA, General Agim Çeku (KCSS 2009). Among them, it was agreed that immediately after the disbandment of the KLA, a new organization called Kosovo Protection Corps would be established, in order to absorb a substantial part of the KLA's manpower and direct their aspirations (NATO 1999c).

The KPC was established on September 20, 1999, and much to the Kosovo Albanians' dismay it was nothing near the US National Guard, as originally stipulated in the Undertaking. Indeed, the US National Guard, being a component of the US military, has a dual mandate of both civilian and military nature. Thus it can respond not only to domestic emergencies, reconstruction missions and counterdrug efforts, but also to overseas combat missions (National Guard 2016). However, the KPC was branded solely as 'a civilian emergency service agency' responsible to "provide disaster response services, perform search and rescue, provide a capacity for humanitarian assistance in isolated areas, assist in demining, and contribute to rebuilding infrastructure and communities" (UNMIK 1999). The international community's deviation from its previous commitment to consider the formation of a Kosovo Army following the model of the US National Guard was the result of serious concerns as to the destabilising effect that such a development could have in Kosovo, in particularly regarding the relations between Albanians and Serbs. In retrospect, it can be argued that the commitment included in the Undertaking was necessitated by the need to have the KLA leadership sign and agree to the KLA's demilitarisation, as "the short-term objective of establishing security in the immediate post-war period was given priority over the long-term objective of finding a clear and durable solution for the governance of Kosovo" (Petersen 2005, 4). As such, the promise of June 1999, for a new security institution modelled after the US National Guard was used, by both UNMIK and KFOR, as a means to expedite the demilitarisation of the KLA, concealing the international community's preferred policy in Kosovo, which was 'to remove the KLA from the scene entirely' (ICG 2000, 19).

By September 1999 though, numerous incidents of non-compliance with the Undertaking, by certain fragments of the KLA, had made the international presence in Kosovo believe that the successor of the KLA should have no authority whatsoever in the provision of security and that its mandate should have no resemblance to that of a military institution. Thus, when on September 21, the UN Special Representative for Kosovo and Head of UNMIK, Bernard Kouchner, announced the agreement for the establishment of the KPC, he emphasised its civilian nature by saying: "The Corps must not be an army and it is not an army, believe us, it was an army yesterday and we break the army, we demilitarise" (NATO 1999f). In fact, Kouchner attempted to



cast away any doubts regarding the limited mandate of the KPC, stating that the new institution would be closely modelled after the French *Sécurité Civile*, so as to provide ‘needed emergency and other specialised services’ (NATO 1999f). Evidently, both UNMIK and KFOR intended to eliminate any direct association between the KLA and the KPC. Thus, despite KPC being a ‘desirable compromise’ in this situation, formally there was meant to be no continuation between KLA and KPC (Pettifer 2003, 2).

Indeed, the establishment of the KPC was agreed under two provisions that were highly indicative of this intention. Aspiring KPC members had to apply individually and the successful candidates would be individually selected on the basis of merit and professionalism. Moreover, 10 percent of both active and reserve KPC members would come from minority groups, such as Serbs and Roma. This design meant to highlight that KLA membership would not necessarily and by definition lead to KPC membership, or in other words that the former KLA fighters would not be “just taking off one hat and putting on another” (NATO 1999e). In addition, KPC would not have “any role in law enforcement or the maintenance of law and order” and its members were prohibited from holding any public office and engaging in political affairs (UN 1999). Depriving KPC from any responsibility in relation to the provision of security in Kosovo was an explicit message against the aspirations of the KLA leadership who envisioned KPC becoming an active security force, operating in the space between KFOR and the new Kosovo police, which was then under development. To underscore the non-enforcement character of the KPC, UNMIK and KFOR decided that KPC members would be unarmed, allowing only for 200 side arms to be carried by the KPC officers and the guards of the sites where the force would be based. Additionally, KFOR would hold on to 1,800 small arms in trust for the KPC, only to be used in highly exceptional circumstances, following direct authorisation from KFOR (Heinemann-Gruder and Paes 2001, 20). The KPC, with 3,000 active members and 2,000 reserves, was placed under the overall supervision of UNMIK’s interim administration in Kosovo, with the International Organisation for Migration (IOM) being responsible for the recruitment and selection process of its members and the development of the KPC Training Programme, which aimed to promote accountability, discipline, basic organisational skill, and specialised civil protection and emergency services training (Petersen 2005, 4). In addition, KFOR was given the responsibility to provide day-to-day operational directions and supervise the training and the activities of the KPC (UNMIK 1999).

### **From Kosovo Protection Corps to Kosovo Security Force**

In late 2003, UNMIK presented a set of benchmarks for Kosovo’s democratic development, commonly known as Standards for Kosovo. The Standards covered nine areas, namely functioning democratic institutions, rule of law, freedom of movement, sustainable returns and the rights of communities and their members, economy, property rights, dialogue and the Kosovo Protection Corps (UNMIK 2004a). The Standards, which were reaffirmed through the Kosovo Standards Implementation Plan (KSIP) of March 31, 2004, recognised that the KPC had made progress in developing as a civilian emergency organisation, having positively contributed in a variety of emergency situations throughout Kosovo, including the 2002 earthquake in Gjilan, the 2002 fire in Kosovo Power Plant and, the 2004 recurrence of ethnic violence (UNMIK 2004b, §8). However, KSIP concluded that there was a continuous need for more and better training of the KPC personnel, as well as a need to develop the internal command and control structures of the



KPC, “in order to operate in a transparent, accountable, disciplined, and professional manner” (UNMIK 2004b, §8).

Along the same line, in 2006, Kosovo’s Internal Security Sector Review (ISSR) report found that the gaps in training and command structure of the KPC were still significant, necessitating not only the rationalisation of training and structure, but also the downsize of the KPC in view of Kosovo’s budgetary limitations (ISSR 2006). In addition, perhaps the most worrying finding of the ISSR was that the representation of minorities in the KPC ranks was still minimal, with minorities accounting for 5 percent of active KPC personnel, of which Serbs were fewer than 2 percent. Indeed, the report argued that while influence from Belgrade was unquestionable among Kosovo Serbs, the lack of Serbian participation in the KPC was largely a result of the perceived connection between KPC and the former KLA (ISSR 2006). Overall, it was clear that the KPC, despite its positive contribution in emergency situation, had reached a stalemate in its development as, in addition to being merely a compromising solution for the demilitarisation of the KLA in the first place, it had become apparent that it could neither satisfy fully the aspirations of Kosovo Albanians, nor earn the trust of Kosovo Serbs.

The way out of this stalemate, was given by the Comprehensive Proposal for the Kosovo Status Settlement (Ahtisaari Plan), which was presented in 2007. Indeed, already since late 2005 the UNSG had appointed the former Finnish President Martti Ahtisaari as his Special Envoy for Kosovo, tasked to draft a proposal for the future status of Kosovo, based on three guiding principles agreed upon by the Contact Group countries. Those principles were no return to the pre-1999 status, no partition of Kosovo, and no redrawing of international borders in the region (Caruso 2008, 2). The Plan presented in late 2007 was essentially a blueprint for the establishment, organisation and development of a self-governed, democratic and multi-ethnic Kosovo, arguing for local involvement in the governance of Kosovo and for active participation of non-Albanian communities in Kosovo’s public life. The Plan purposefully did not mention the term independence, leaving the question of Kosovo’s final status to be addressed in the future.

Regarding the development of Kosovo’s security sector, the Plan stipulated that “except as specified elsewhere [in the Plan] Kosovo [should have] authority over law enforcement, security, justice, public safety, intelligence, civil emergency response and border control on its territory” (UNSC 2007). More precisely, the Ahtisaari Plan argued that “the KPC, having accomplished its goals, including facilitation of Kosovo’s post-conflict recovery [should be] dissolved” and “a new professional and multi-ethnic Kosovo Security Force (KSF) [should be] established” (UNSC 2007). The Plan emphasised that this transition was to take place under the supervision and through the close cooperation of the International Civilian Representative (ICR) and the International Military Presence (IMP) in Kosovo, with the latter being responsible for deciding when the KPC would be dissolved. Overall, the international community received the Ahtisaari Plan positively, as evident by the Plan’s endorsement by NATO and the EU, their member states individually and of course the Kosovo Albanians (NATO Parliamentary Assembly 2007, §52). However, Serbia rejected the Plan, arguing that the document had no legitimacy accredited by the UNSC. In addition, Russia, a member of the Contact Group, objected the endorsement of Ahtisaari’s proposals as a final plan to be implemented in Kosovo, indicating that the Plan should be used simply as the starting point for a new round of negotiations between Serbia and Kosovo (Caruso 2008, 5).

On February 17, 2008, Kosovo's unilateral declaration of independence, not only marked the beginning of a new era for Kosovo, but also became a catalyst that expedited the development of state institutions. In what can be understood as an attempt to gain support and appease concerns in the international community, the declaration of independence came along with a binding commitment for the full and thorough implementation of the Ahtisaari Plan. In fact, in order to reiterate this commitment, the government of Kosovo welcomed a period of supervision by the International Steering Group for Kosovo (ISG) and incorporated large parts of the Ahtisaari Plan in the Constitution of Kosovo that entered into force on June 15, 2008. Kosovo's declaration of independence set in motion the transition from KPC to KSF that was envisaged by the Ahtisaari Plan, as together with the Constitution of Kosovo, the Law on the Ministry for KSF, the Law on the KSF and the Law on Service in the KSF were enacted (Ministry for the KSF 2010). Serbia and Russia rejected immediately Kosovo's independence, yet the majority of EU and NATO member states recognised Kosovo. Notable exceptions were, and continue to be, Cyprus, Greece, Romania, Slovakia and Spain; the last four being both EU and NATO members. Additionally, right after Kosovo's declaration, the North Atlantic Council (NAC) reaffirmed 'NATO's responsibility and capability' to continue providing security in Kosovo, highlighting that NATO attached "great importance to the implementation of standards in Kosovo" (NATO 2008).

The design of the KSF was much more detailed and elaborate than the KPC, however, the main concern regarding the former was how to avoid the structural and conceptual weaknesses of the latter. Thus, in order to defuse any suspicions that KSF would be just a rebranding of the KPC, the Law on Service in the KSF consisted of a special provision regarding the membership of former KPC personnel in the KSF, stipulating that "should former members of the KPC [would apply] for and subsequently be accepted into service with the KSF, such individuals [would be] accorded no special rights or privileges and [should] not wear any insignia other than that approved for the KSF"; additionally, although "the initial appointment and rank of former KPC personnel within the KSF [would] take account of their former rank, appointments and experience within the KPC [...] in all cases, such appointments [ought to] best serve the needs of the KSF" (Republic of Kosovo 2008a). Moreover, in order to emphasise even more the lack of continuation between KPC and KSF, it was decided that KSF would be activated only after the KPC was formally deactivated. Indeed, the KPC stand-down took place on January 20, 2009, and its mission was formally terminated on June 14, 1999; symbolically chosen to be one day before the entry into force of the Kosovo Constitution. The formal stand-up date of KSF was January 21, 2009.

According to the Ahtisaari Plan, the KSF would be primarily responsible for crisis response, explosive ordnance disposal, and civil protection, though, additionally the KSF should be designed in such a way so as to be prepared to fulfil other security functions that could not be fulfilled by either the police or any other law enforcement organization (UNSC 2007). Adopting this approach, the Law on the KSF defined that KSF would have initially the following four tasks: a. to participate in crisis response operations, including peace support operations outside the territory of the Republic of Kosovo, where invited to do so; b. to assist civil authorities in responding to natural and other disasters and emergencies, participating also in regional or international response efforts; c. to conduct explosive ordnance disposal; and d. to assist civil authorities through civil protection operations. All additional, extraordinary, tasks and responsibilities would be assigned to the KSF by authorisation from the IMP, in agreement with the ICR, only when absolutely necessary (Republic of Kosovo 2008b).

Same as the KPC, the KSF would be lightly armed, possessing no heavy weapons and offensive capabilities, while it would consist of no more than 2,500 active and 800 reserve members. However, a significant departure from the KPC design was the civilian oversight and the chain of command of the KSF. Indeed, while the KPC was directly placed under the control of the ICR and the IMP in Kosovo, the KSF control and accountability structure was much different, giving emphasis to the local ownership of the institution. More precisely, implementing the provisions of the Ahtisaari Plan, the KSF was placed under strict and constant civilian oversight, through a designated civilian-led government institution; the newly established Ministry for the KSF. Additionally, the Law on the KSF indicated explicitly that the KSF chain of civilian oversight would consist of the Assembly of the Republic of Kosovo, the President, the Prime Minister, and the Minister for the KSF, in order to ensure the transparent and democratic control of the institution (Republic of Kosovo 2008b).

The design of the KSF gave particular emphasis on two more considerations; namely the need for KSF to be multi-ethnic and the need to involve the international presence in Kosovo in the establishment and development of the KSF. To do so, the Law on the KSF highlighted that “all citizens of the Republic of Kosovo having attained the age of 18, are eligible to apply for membership of the KSF” recognising the Serbian language as one of the two official languages of the KSF, together with Albanian (Republic of Kosovo 2008b). Additionally, it was explicitly stipulated that the KSF would be an all-volunteer force with members from all strata of the society, and that membership would be decided on the basis of a professional, thorough and impartial selection process. The selection procedure for the KSF would be developed by local authorities, in constant and close cooperation with the IMP and, besides the medical and physical tests, it would include a standardised vetting process “to decide the suitability of applicants for service within the KSF”. Notwithstanding the highly level of local ownership in the establishment of the KSF, the overall responsibility for the initial establishment, development and training of the KSF was explicitly given to the NATO’s KFOR in its capacity as the IMP in Kosovo (Republic of Kosovo 2008a). Finally, as envisaged by the Ahtisaari Plan, Kosovo’s legislation on the KSF endorsed the provision that any review and changes of the limitations on the tasks, structure, size and strength of the KSF, and particularly those on weaponry and manpower, could only be possible after a five-year period and only in cooperation and coordination with the IMP and the ICR in Kosovo (Republic of Kosovo 2008b).

### **The development of the Kosovo Security Force until 2013**

The recruitment process of the KSF had already been designed before the force’s stand-up in January 2009. Joining the KSF proved to be a considerably attractive idea among KPC personnel, as almost the entirety of KPC staff applied for service with the newly established force. However, following a joint decision by KFOR and the Ministry for the KSF, only 1,400 former KPC members were admitted in KSF, while the rest of the positions were filled through open calls for applications according to NATO standards.<sup>1</sup> The first contingent of KSF started training early in February 2009 and by late August 2009 KSF had its first generation of officers and cadets trained and certified.

On September 3-5, 2009, the KSF held its first major exercise in the KSF Training Centre in Ferizaj. The exercise was planned, organised, supervised and assessed by KFOR, in order to determine the progress of the KSF’s development. KSF personnel performed drills in search and res-

cue, demining, fire fighting and disposal of hazardous materials, demonstrating a high level of professionalism (Ministry for the KSF 2010). KFOR assessed the exercise very positively and a few days later, on September 15, 2009, NATO declared that KSF had achieved Initial Operational Capability, certifying, essentially, that the establishment of the KSF had been successful and that its development was well under way. The next major objective for KSF was then to achieve Full Operational Capability (FOC).

The following years, KSF continued its development through a series of positive steps, benefiting from the active support of the NATO Advisory Team (NAT) at the Ministry for the KSF and the NATO Liaison and Advisory Team (NLAT) at the KSF. In 2011, the KSF intensified its training programme, increased the participation of minorities in its ranks, and conducted numerous operations within the scope of its mandate. Additionally, the Ministry for the KSF succeeded in initiating bilateral cooperation with eleven countries, including, among others, the USA, UK, Germany, Turkey and Japan. Moreover, a significant recognition for the progress of the KSF was the acquisition of State Partnership status with the US National Guard of Iowa, although the most notable success of the KSF was the achievement of Recommendation for FOC from the Commander of KFOR (Ministry for the KSF 2011). In 2012 and early 2013, the KSF continued in the same positive trajectory. The Ministry for the KSF continued to strengthen the organisational structure of the force, and a Regulation on Standardisation in the KSF was adopted, in accordance with NATO standards. Many KSF officers were sent for advanced and specialised training courses in the USA, UK and Germany, while different KSF contingents participated in peacekeeping exercises in Turkey and joint exercises in Albania and FYROM. Finally, in 2013, following a recommendation by KFOR, NATO's North Atlantic Council (NAC) decided that the development of the KSF had reached the required NATO standards. Thus, on July 9, 2013, the NATO Secretary General, Anders Fogh Rasmussen, declared that KSF had achieved Full Operational Capabilities, less than five years after its establishment (NATO 2013).

## **The post-2013 debate on the future of the Kosovo Security Force**

### **The milestone of 2013**

The year 2013 is rightfully considered a major milestone in the development of the KSF, not only due to the acquisition of FOC, but also because 2013 was the first year of Kosovo's unsupervised independence. More precisely, on September 10, 2012, the ICR in Kosovo, Pieter Faith, declared on behalf of the International Steering Group (ISG) 'the end of the supervision of Kosovo's independence and the end of the mandate of the International Civilian Representative' (Balkan Insight 2012). The decision of the ISG, apart from marking the beginning of a new era for Kosovo, it also signalled the end of the Ahtisaari Plan, as following the last meeting with the Government of Kosovo, the ICR determined that "the Comprehensive Proposal for the Kosovo Status Settlement had been substantially implemented" (Balkan Insight 2012).

Kosovo's unsupervised independence generated high hopes for the country's future among its Albanian population and the future of the KSF could not be an exception. Already in December 2012, the then Minister for the KSF Agim Ceku addressed the Assembly of Kosovo arguing that 2013 was going to be 'the year of the Kosovo Army' (Atlantic Council 2013), while shortly after KSF acquired FOC, Ceku reaffirmed his belief, saying that Kosovo was already working, in close cooperation with its international partners, on identifying its true security needs and that this

process would be completed by the end of 2013 (Balkan Insight 2013). In addition, since early 2013, the Ministry for the KSF in cooperation with the Defense Security Cooperation Agency of the US DoD began to develop medium and long term plans for the transformation of the KSF into KAF, within the framework of the Agency's Defense Institutional Reform Initiative (DIRI), which aims to provide know-how for the development of effective, accountable, professional and transparent defense institutions in US partner countries.<sup>2</sup>

Moreover, in 2014, the government of Kosovo published the final recommendations that were drawn following the conclusion of the Strategic Security Sector Review (SSSR), which was initiated in 2012. According to the SSSR, the KSF should be transformed into KAF 'with the mission of protecting the nation's territorial integrity, providing military support to civil authorities in disaster situations, and participating in international peacekeeping operations', while the Ministry for the KSF should be transformed into 'a Ministry of Defense with the responsibility of providing civilian oversight and guidance for the new Kosovo Armed Forces' (Republic of Kosovo 2014). The momentum was clearly indicating that the transformation of the KSF into KAF would be imminent. However, three years later the situation remains the same as it was in June 2013. The KSF continues to operate under its original mandate and its transformation process seems to be in a stalemate. The following section sheds some light on NATO's position on the possible transformation of KSF into KAF, while further on this paper will outline the legal and political aspects of the relevant ongoing debate.

### **NATO's perspective on the transformation of the Kosovo Security Force**

Following the NAC's decision on the full operation capabilities status of the KSF, NATO's formal position on the establishment of the KAF, having been repeatedly expressed by high-level NATO officials, is essentially that NATO continues to stand by its commitment to provide security in Kosovo, while any decision on the transformation of the KSF is an internal affair of Kosovo. In November 2014, a spokesperson from NATO HQ, in Brussels, voiced clearly this position arguing that the establishment of KAF is entirely up to the local Kosovo institutions (B92 2014). The NATO SG, Jens Stoltenberg, reiterated NATO's stance, in January 2015, emphasising that NATO is not responsible to decide the future of the KSF, adding, though, that every decision of the Kosovo government on the matter should be made "in a way that does not undermine the stability and peace" (Gazeta Express 2015a).

Among Kosovo Albanians, the NATO stance has been interpreted in various ways, though all interpretations share the understanding that NATO would not object the transition from KSF to KAF. On the one side, there seems to be the argument that NATO maintains an attitude of non-interference regarding the decision on KAF, as despite the fact that NATO acknowledges the need for a Kosovo army at the same time it does not consider the establishment of KAF as deadly urgent.<sup>3</sup> On the other side, lies the argument that NATO desires the transition to KAF as a step closer to the completion of security capacity building in Kosovo, and in order to prepare in advance for the transfer of responsibilities when KFOR withdraws from the country. However, both arguments seem to understand that NATO's position is that all changes on the current KSF status "should be made through a constitutional amendment' and in 'very close consultation with all minorities in Kosovo".<sup>4</sup>



On the sidelines of NATO's official position of non-interference with what the Alliance understands as an internal issue of Kosovo, it is worth mentioning that the US and, to a lesser extent, the UK seem to have a much more proactive stance in support of the establishment of KAF. In February 2015, during his visit in the US Pentagon, Hashim Thaci was greeted with the reassurance that "the transformation of the KSF into KAF enjoys the full support of the United States" (Gazeta Express 2015e). Moreover, in October 2016, the US Ambassador in Kosovo, Greg Delawie, argued that KFOR would not withdraw from Kosovo as the non-establishment of KAF makes the country still lacking the necessary defence capabilities. However, Ambassador Delawie expressed assurance that "there will be a transformation of the KSF into KAF", arguing that until this is done, the US and NATO "will not allow a [security] gap" (Gazeta Express 2016d). In practice the support of the US and the UK for KSF is clearly evident through the assistance both these leading NATO member states provide continuously to the KSF, particularly on training and internal organisation development.<sup>5</sup> The US in particular is widely considered by most of the Kosovo Albanians as the primary international supported not only of the KSF, but of Kosovo all in all. Regarding the US support to the development of the KSF, a prominent figure of the political party Alliance for the Future of Kosovo (AAK) argues that, while NATO might not object KAF, it is the US that will remain the main guarantor of security in Kosovo, even after a possible transformation of KSF into KAF. In his words, "KAF is simply a matter of pride and it would have no utility whatsoever, if the US were to give up on Kosovo".<sup>6</sup> Even with the US support well in place, though, the establishment of KAF turns out to be a rather complicated issue due to both political and legal reasons.

### **The legal debate on the transformation of the Kosovo Security Force**

The ongoing debate on the future of the KSF and the possibility of its transformation to KAF has a very important legal component. In fact, the most significant restrictions on the size, armament and competencies of the KSF are legal, thus it comes as no surprise that any relevant discussion touches, to a greater or lesser extent, upon legal arguments. However, despite the wide array of different opinions that have been voiced publicly on the matter, since the KSF acquired the status of FOC in 2013, over time it has become apparent that the debate evolves around two different core arguments. On the one hand it is argued that the transformation of KSF to KAF can only be made possible through a constitutional amendment, while on the other hand it is argued that KSF can be transformed into KAF simply by changing the current legislation and thus a constitutional revision is not necessary.

Those who side with the first argument claim that a formal rebranding of the KSF as KAF can only be realised through a constitutional amendment, as the Constitution of Kosovo explicitly stipulates the existence of the KSF as the national security force tasked to protect the people and communities of Kosovo (Constitution Article 126). In this case the rationale of this argument holds that if a new institution, namely the KAF, was to replace KSF, then the relevant articles of the Constitution would have to be amended accordingly. On the other hand, those subscribing with the second argument emphasise the fact that all current restrictions on the competencies of the KSF stem from the relevant legislation rather than the Constitution. This argument claims that the Constitution has only one very general article regarding the KSF and this article makes no specific references to the force's competencies; rather all detailed restrictions are found on the 2008 Law on the KSF.

While both arguments appear to have their own merit, a more detailed examination of the two arguments indicates that “there is no legal-constitutional barrier to KSF’s treatment as an army, and amending the legislation, not the Constitution, would eliminate current restrictions on its functions, competencies, armament and number of members” (KCSS 2016, 5). Indeed, while the current restrictions on the KSF originate from the Ahtisaari Plan, which was adopted almost in its entirety in the Constitution of Kosovo, and while the Constitution of 2008 emphasised that the Plan’s provisions would always prevail against the Constitution and all legislation of Kosovo, since 2012 this is no longer the case. The end of Kosovo’s supervised independence, in September 2012, allowed for a constitutional amendment, in October 2012, that deleted from the Constitution any reference to the Ahtisaari Plan and its supremacy over national legislation (Republic of Kosovo 2015, article 143). Thus, given that the provisions of the Ahtisaari Plan have been out-dated since September 2012, there is no other source of restrictions for the KSF than the national legislation itself.

However, despite this understanding seemingly discrediting the argument that calls for the transition from KSF to KAF through a constitutional amendment, it is crucially important to highlight that there is still merit in the voices that support this amendment. Indeed, despite the fact that a change of the existing legislation could remove the practical restrictions for the actual transformation of KSF into an army, formally such a transition could never take place as long as the Constitution refers to Kosovo’s national security force as KSF. Indeed, for as much as “the name does not determine whether an institution is military or something less than military” (KCSS 2016, 5) the adoption of a new name for the KSF and the redefinition of its mission could only be possible through the amendment of the relevant article in the Constitution. Yet, despite one’s perspective on the legal aspects of the ongoing debate, it is crucial to understand that over the years the discussion on the transformation of the KSF has been heavily politicised. The section below, attempts to sketch this wider political discussion on the future of the KSF, putting the legal debate into perspective.

### **The politicisation of the debate on the Kosovo Security Force**

The legal debate on the transformation of KSF into KAF falls within a wider debate, which is essential of a political nature. In fact, it can be argued that as of 2013 there is an ongoing process of the topic’s politicisation, since the actual operational capabilities of the KSF are no longer an issue. Kosovo Serbs seems to have a rather clear position on the topic, which can be summarised as follows: NATO’s KFOR is enough to cover Kosovo’s current security needs and thus there is no actual and real need for the transformation of the KSF into KAF. In fact, according to a Kosovo Serb political analyst, the establishment of KAF would increase frustration among Kosovo Serbs “for reasons that are both psychological and real”.<sup>7</sup> More precisely, he argues that the Serbian community in Kosovo ‘will always object KAF due to the mere possibility that such force could, in time, become an offensive military force that could be used against them.’<sup>8</sup> Additionally, the same expert highlights that Kosovo Serbs continue to fear that, despite the central government’s reassurances, KAF could be misused in case of deterioration of the political situation in Northern Kosovo.

Along the same line, a representative of the Kosovo Serb civil society offers a more generalised perspective, regarding the Kosovo Serbs’ perception towards Kosovo’s security institutions. In this case, the argument is that the Serbian community in Kosovo is widely dominated by the



belief that all state security institutions have repeatedly failed to protect the Serbs, especially those living in the Serbian enclaves south of the Ibar River. Thus, according to the same person, the majority of Kosovo Serbs perceives KAF not only as an institution that is not necessary, but also as development that could possibly threaten directly their security inside Kosovo.<sup>9</sup> The same Kosovo Serb civil society representative offers an interesting comparison between the Kosovo Police Service (KPS) and KAF. According to this argument, despite the representation of Kosovo Serbs in the KPS and regardless of the KPS being a civilian security institution for which there is a daily need, the public perception of Kosovo Serbs towards it remains overall negative. On the contrary, KAF is understood by Kosovo Serbs as an unnecessary development, since the continuous presence of KFOR in Kosovo guarantees provision of security. Thus, the argument holds that Kosovo Serbs' negativity towards KAF will be widespread and that they will be even less motivated to join its ranks than compared to the KSF.

These arguments stemming from the Kosovo Serb civil society seem to be clearly echoed in the statements of Kosovo Serb MPs and Serbian politicians in Belgrade. In January 2016, Kosovo Serb MP, Nenad Rasic, argued that Srpska Lista would not support any constitutional amendment for the transformation of KSF. Rasic underlined that 'KAF is not in the best interest of Serbs in Kosovo, and right now [KAF] is not in our schedule', adding that while the Association of Serbian Municipalities would not satisfy fully the interests of Kosovo Serbs it would be "a success story of Belgrade politics towards Kosovo" (Gazeta Express 2016b). Along the same line, few months later, in May 2016, the Kosovo Deputy Prime Minister, Branimir Stojanovic, reaffirmed that the position of Serb MPs not to allow the formation of KAF had not changed. Evidently, the Serbs in Kosovo reject the idea of KAF, either for political or for psychological reasons. In fact, it is clearly understood that Srpska Lista advocates that the transformation of KSF must be included in the EU-mediated bilateral negotiations between Kosovo and Serbia. To this end, in 2015, the member of the Kosovo Assembly Committee on Internal Affairs, Security and Supervision of the KSF, Bojan Mitic, claimed that "[KAF] is a major issue and it requires a high-level solution [thus] the state of Serbia must be involved in the process and I hope there will be a solution that benefits all people living in Kosovo" (Gazeta Express 2015b).

The fears of Kosovo Serbs regarding the role that KAF might have in Kosovo have been continuously addressed by the Kosovo Albanians through statements that attempt to appease those fears, highlighting that KAF will pose no threat to any of the ethnic minorities in Kosovo. Most recently, in September 2016, Kosovo President Hashim Thaci, while describing KSF as 'Kosovo's future army', he emphasised that the establishment of KAF will be done through "the involvement of the members of all communities, with an advanced gender composition" (B92 2016). Additionally, in November, the Minister of KSF, Haki Demolli, reiterated that once established, KAF 'will respect gender equality and will be multi-ethnic', adding that it will represent 'no security concern for the region' (Gazeta Express 2016c).

Currently, the government of Kosovo seems to be under growing pressure from all opposition parties to move forward with the completion of KSF's transformation.<sup>10</sup> However, the legal constraints for the establishment of KAF have put the government in a rather difficult position. A high-ranking official of AAK argues that Kosovo missed its greatest opportunity to establish KAF in 2013, when the Serb MPs of the Independent Liberal Party (SLS) had agreed to vote in favour of the necessary constitutional amendment in exchange for the prolongation of the set-aside seats rule in the Kosovo Assembly, for four more years. That particular rule, originating

from the Ahtisaari Plan, stipulated that for the first two electoral mandates upon the adoption of Kosovo's constitution, Kosovo Serbs would have ten seats reserved in the Kosovo Assembly, to which the seats won through open election would be added. From the third electoral mandate onwards, Kosovo Serbs would have all their seats won through open election, with a minimum ten seats guaranteed, in the event that the number of seats won was less than ten. According to the same AAK official, the Democratic Party of Kosovo (PDK) and AAK had agreed to that deal, but Isa Mustafa's Democratic League of Kosovo (LDK) did not and therefore the deal was never implemented.<sup>11</sup> Since 2014, the marginalisation of the moderate SLS and its replacement in the Kosovo Assembly by the pro-Belgrade Srpska Lista has rendered any thoughts of constitutional amendment impossible. As a prominent political analyst in Kosovo put it, "Srpska Lista operates in autopilot from Belgrade, thus nowadays the government would have to work really hard in order to persuade [the Serb MPs] to vote for the establishment of KAF".<sup>12</sup>

This understanding seems to be shared by most of the Albanian political parties, currently sitting in the Kosovo Assembly. For instance, a PDK official has claimed that "the repeated refusal of the Serb MPs to vote for KAF is orchestrated by Belgrade, as Serbia is determined to use any means available to obstruct the completion of Kosovo's independence, aiming to make Kosovo a failed state".<sup>13</sup> Using a less hard tone, but along the same line, an LDK official argues that "Serbia is using the current deadlock on the establishment of KAF in order to include the issue in the agenda of the Brussels dialogue" and warns that Kosovo "will pay a price if an internal issue becomes part of a bilateral negotiation".<sup>14</sup>

Overall, Albanian policy makers in Kosovo seem to agree on the understanding that the Serbian MPs are using their votes as political leverage and that they would accept the establishment of KAF, if they were to receive something substantial in return. Clearly, the most lucrative quid pro quo for the Kosovo Serbs is the implementation of the agreement on the establishment of the Association of Serbian Municipalities.<sup>15</sup> The agreement that was negotiated between Kosovo and Serbia in August 2015, under the auspices of the EU, stipulates that Kosovo Serbs will commit to their full integration into Kosovo structures and in exchange they will be granted full oversight over economic development, education, healthcare, urban and rural planning, while being allowed to receive financial support directly from Belgrade. However, the government of Kosovo, being under heavy internal criticism from opposition parties, delayed the process of forming the working group that would draft the Association's statute, which should have been ready by the end of 2015 (Balkan Insight 2016). Yet, given that the Association was not activated during 2016 either, according to an LDK official "the government should not anticipate the Serb MPs to agree on KAF any time soon".<sup>16</sup>

Other issues could also be used as bargaining chips between the government of Kosovo and the Srpska Lista. Kosovo Serbs would most probably accept to vote for a constitutional amendment, in return for the appointment of Kosovo Serbs in the deputy-commander positions of all security institutions in Kosovo.<sup>17</sup> Alternatively, the reconsideration of the number of minority seats in the Kosovo Assembly, with a return to the practice of set-aside seats for an indefinite time period, could also be enough of a motive for the Kosovo Serbs to accept the establishment of KAF.<sup>18</sup> Finally, another incentive for Srpska Lista to vote for the transformation of the KSF could be the annulment of the recently adopted law on the Trepca mining and metallurgical complex.<sup>19</sup> Early in October 2016, the Kosovo Assembly voted for a law that placed the Trepca complex under direct government control, initiating fierce reactions both inside the Kosovo Serb minority and

in Belgrade, as Serbia claims ownership of 75 percent of the complex (Reuters 2016). However, given that all these issues are being placed by Kosovo Albanians under the rubric of national interest, and as “no government of Kosovo would accept under normal circumstances [i.e. lack of war] any trade-offs on these particular issues”<sup>20</sup> the current stalemate on the establishment of the KSF seems impossible to overcome in the near future. Realistically, the issue that currently seems to have the most potential to drive the debate on the transformation of the KSF out of the current deadlock is the enactment of the agreement on the Association of Serbian municipalities in Kosovo. In fact, a statement of the Director of the Kosovo Office of Serbia, Marko Djuric, was highly indicative of the connection that Kosovo Serbs understand to exist between the Association and the establishment of KAF. More precisely, Djuric, argued in September 2015 that since the international community is the guarantor for the implementation of all agreements in Kosovo, “the Association is a done deal”, the same way that ‘establishment of KAF is an irreversible process” (Gazeta Express 2015c).

Overall, any Albanian policy makers in Kosovo, both inside and outside the current government, seem to agree that over the recent years all governments have failed to prioritise the transformation of the KSF into KAF over other issues. Some rationalise this understanding by arguing that the Brussels dialogue has been absorbing a great deal of the governments’ attention and capacity since 2013.<sup>21</sup> However, others, including the former Minister for the KSF, Agim Ceku, are being way more critical. Indeed, in early 2016, Ceku argued that the delays in the transformation of the KSF are difficult to grasp and that if the transformation process fails, the government would have no excuses (Gazeta Express 2016a). Thus, the current political debate among Kosovo Albanians is focused on what should be the government’s course of action in order to achieve the much-anticipated establishment of KAF.

### **Three scenarios for the future of the Kosovo Security Force**

The ongoing political debate on the transformation process of the KSF indicates clearly the complexity of the issue, allowing for three different scenarios to emerge as possible ways out of the current stalemate. These scenarios stipulate different courses of action, resulting in rather different outcomes.

#### **First Scenario: No transformation for the foreseeable future**

The first scenario is essentially a prolongation of the existing status quo. The hypothesis behind this scenario is that the government of Kosovo, in order to avoid taking any difficult decisions, will not take any initiative for the transformation of the KSF into KAF, assuming a rather waiting position for future opportunities to act. In this case, neither the name nor the mission and capabilities of the KSF will change any time soon, maintaining the KSF as a lightly armed civil protection force. The KSF will continue to be under the direct oversight of NATO and KFOR will remain the only security provider in Kosovo.

This scenario could be favoured for many different reasons. To begin with, it could possibly contribute towards the appeasement of concerns among the Serbian community in Kosovo, providing motivation for their faster and better integration in Kosovo’s formal state structures. Also, it could serve as a gesture of good will towards Belgrade, aiming to expedite the successful conclu-

sion of the ongoing negotiations between Pristina and Belgrade under the Brussels Agreement of 2013. In addition, it could appease international concerns, especially by those countries that are still worried of the possibility that Kosovo could destabilise the region through unilateral decisions. Moreover, this course of action would put no additional burden on Kosovo's budget, as all current limitations on the size and capabilities of the KSF will remain in place. However, this scenario would bring the government of Kosovo under heavy internal pressure, as the long-un-satisfied expectations for the establishment of KAF have made all Albanian opposition parties, and in fact the Albanian community as a whole, grow weary and restless.

### **Second Scenario: Transformation through legislation amendment**

This scenario could be understood as the most cost-effective way of transforming the KSF into a military force. The hypothesis supporting this scenario is that, given the implementation of the Ahtisaari Plan has been completed, the government of Kosovo could proceed with the amendment of all legislation relevant to the KSF so as to increase its size and capabilities. Essentially, in this scenario the government of Kosovo will proceed with a de facto militarisation of the KSF through a simple majority vote that would not depend on the support of the Serbian MPs in the Kosovo Assembly. This scenario would allow the government of Kosovo to remove all restrictions that stem from current legislation and thus to expand the KSF mission towards more military-style tasks and responsibilities, through the increase of its personnel and the upgrade its weaponry. Changes to the KSF capabilities would be modest, in order not to overburden Kosovo's budget, while the supremacy of KFOR as the main security provider in Kosovo would not be challenged, even though the militarised KSF could gradually assume more responsibilities in the future.

This scenario could be chosen as a smart way out of the current political deadlock on the future of the KSF, as it could serve as a moderate compromise between the internal demands for the establishment of a national army and the risk of increasing tensions with Serbia in the event that KAF was to be established before the conclusion of the ongoing bilateral negotiations. Indeed, this course of action, despite not being the most desirable scenario for either the Albanians or the Serbs in Kosovo, would alleviate internal pressure on the government of Kosovo, since the KSF would be seen as moving closer to becoming an army, while the concerns of Kosovo Serbs and Serbia could be appeased relatively easily, as neither the name nor the mandate of the KSF would be formally changed. However, opting for this scenario the government of Kosovo should consider seriously the potential international implications. Despite NATO's formal position of non-interference with the transformation of KSF, analysts in Kosovo have underlined the fact, as mentioned earlier in this paper, that NATO is strongly supportive of any transformation being the result of a constitutional amendment, in close collaboration with the country's Serbian minority.

### **Third Scenario: Transformation through constitutional amendment**

For all Albanians in Kosovo, this scenario stands as the most desirable next-step in the transformation process of the KSF. The hypothesis supporting this scenario is that a formal transition from KSF to KAF will not only complete Kosovo's statehood, given that an army is the only core element of statehood that the country is still missing, but will also send, both internally and internationally, a strong symbolic message in support of Kosovo's sovereignty. The establish-

ment of KAF, free of any restrictions that currently apply on the KSF, would essentially mean that Kosovo could assume full responsibility for the defense and security of its territory and its population, especially in anticipation of NATO's full withdrawal from Kosovo sometime in the future.

However, choosing to pursue this scenario presents the government of Kosovo with two rather major challenges. As it has been already discussed earlier in this paper, a constitutional amendment is not possible without the support of the Serbian MPs and so far it is safe to argue that, given the current political dynamics in Kosovo, List Srpska is neither supporting nor accommodating this scenario. Additionally, the establishment of KAF while the Kosovo – Serbia negotiations are ongoing could possibly result in renewed tensions between the two countries, leading the process of normalisation into a deadlock.

## Conclusions

The process of security institution building that began in Kosovo in 1999 and intensified after 2008 seems nowadays to be in a stalemate. Indeed, since 2013, the governments of Kosovo have been neither too eager nor capable to complete the last stage of this process by transforming KSF into KAF. Thus, this paper set out to examine how Kosovo could complete the pending security institution building process and achieve the establishment of KAF, which to date remains the much-anticipated ending point of this process for the Kosovo Albanian majority population in the country. As the discussion in the previous sections revealed, the ongoing debate has various aspects and any decision on behalf of the Kosovo authorities should take into account a wide range of considerations, both internally and externally.

Internally, the most important obstacle to the formal transformation of KSF into KAF seems to be the need for a constitutional amendment that would allow for the change of KSF's name and mission mandate. However, under the current political system in Kosovo, a constitutional amendment necessitates the votes of Kosovo Serb MPs, who for the time being refuse to vote for any amendment of the constitution that would facilitate the declaration of KAF. This legal conundrum has resulted in high tensions between Albanian and Serbs in Kosovo, as the majority of Kosovo Albanians seem unable to ultimately settle for anything less than the formal establishment of KAF, while the Kosovo Serbs oppose strongly this development and seem willing to continue resisting it, at least for the near future. The paper has explained that the current stalemate could be alleviated either by a trade-off between the government and the Belgrade-directed Srpska Lista, or by the government settling for something less than the formal transformation of KSF into KAF. However, both options seem to attract heavy criticism by the Kosovo Albanians. Albanian opposition parties object heavily any notion of *quid pro quo* between the Kosovo government and Srpska Lista, while at the same time any additional delay in transforming KSF into KAF undermines the credibility of Kosovo government in the eyes of Kosovo Albanians. Additionally, the ongoing EU-mediated dialogue for the normalisation of relations between Serbia and Kosovo presents yet another point for consideration to the Kosovo government. Indeed, despite the evident support of the US, the Kosovo government is forced to proceed carefully with any decisions concerning the establishment of KAF, as any hastily decision concerning the establishment of KAF, especially if without the consent of Kosovo Serbs, could derail the Serbia – Kosovo negotiations.

This paper concludes that there are currently three different scenarios available for the government of Kosovo, namely to hold off on the establishment of KAF, maintaining the current status quo of the KSF, to change the laws on the KSF so as to increase its military capabilities while maintaining its name and mission mandate, or finally to seek a compromise with the Kosovo Serbs so as to secure their votes for a constitutional amendment that would allow for the formal transformation of KSF into KAF. In any event, all evidence indicate that NATO will remain, for the foreseeable future, the main guarantor of Kosovo's state security. Yet, as time goes by, internal pressure on the Kosovo authorities grow and it is safe to say that the government will have to find some sort of compromise between the desirable and the possible. Finally, despite the fact that the Ministry for the KSF has already drafted all the laws that need to be changed for the increase of KSF's capabilities, the time when Kosovo stops being a security consumer and becomes a security provider seem rather far away.



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## **(Endnotes)**

- 1 Author's interview with KSF official, 26 October 2016, Pristina
- 2 Author's interview with official of the Ministry of the KSF, 26 October 2016, Pristina
- 3 Author's interview with Kosovo Albanian security analyst, 26 October 2016, Pristina
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# **The Normalization of Relations between Kosovo and Serbia: A Regional Security Complex Perspective**

**Miroslava Kuřková**

## **Introduction**

The Balkan wars are over but almost two decades later the region is far from being stable. The Balkans is the last European region that hasn't yet been fully integrated into the EU and it still poses a threat to the European security. The ghosts of war are still present in the discourse between the region's states. Arguably, there are two interconnected centers of potential instability in the Western Balkans – Bosnia and Herzegovina and Kosovo. This article elaborates on the role of Kosovo and the normalization of its relations with Serbia in the security dynamics of Western Balkans. It uses the analytical framework of the regional security complex theory, articulated by Buzan and Waever, because it provides a comprehensive framework for analyzing the changes in the regional security complexes. Importantly, Buzan and Waever suggest that changes in the core hostilities, in this context Kosovo-Serbia relations, in the regional security



complex could subsequently alter its whole character. As a senior official from European External Action Service (EEAS) said during an interview: “The core of the Western Balkans is created by relations between Kosovo and Serbia. When it is not normalized, it can have spill-over effects on Albania, Macedonia and the rest of the countries”.<sup>1</sup>

The Western Balkans once revealed the weakness of the EU – the Union had to wait for the military intervention of NATO and the decisive contribution of the United States (the Dayton Agreement, for example) to end the violence that emerged after the dissolution of communist Yugoslavia (Douçot-Rubigny 2014). However, the Western Balkans also represents an opportunity for the EU to show its capabilities in conflict resolution and peace promotion. It represents a canvas on which EU could project its values of peace and democracy. There have been numerous initiatives aimed to stabilize the region. Some of them were initiated by the EU – like the Thessaloniki Agenda or the Berlin Process. Others were regional initiatives – the Brdo-Brjuni process or the Migration, Asylum, Refugees Regional Initiative (MARRI) regional forum (Vesnic-Alujevic 2012). Apart from processes focusing on the entire region, there have been also initiatives targeting the improvement of bilateral relations. One of the initiatives presented as most successful is the Brussels dialogue, known officially as the dialogue between Belgrade and Pristina under the auspices of the EU. To what extent is this dialogue and consequent normalization of relations successful? And how can it change the regional security dynamics? This case study argues that though the dialogue brought some kind of cooperation between Kosovo and Serbia, it didn’t contribute much to the actual normalization of their relations. However, the relationship between Kosovo and Serbia is central for the Western Balkan RSC and can help to stabilize or destabilize the region.

This article is divided in three parts. The first briefly presents the main features of the regional security complex theory, defines the Western Balkans as a RSC and elaborate on the importance of Kosovo-Serbia relation in it. The second part analyzes the Brussels dialogue as the main channel of normalization of the Kosovo-Serbia relations, its main accomplishments and obstacles. The last part describes the prospects of the normalization process and of possible evolution of Western Balkan RSC.

## **The Regional Security Complex of Western Balkans and the Question of Kosovo**

### **Regional Security Complex Theory**

In order to speak about regional security complexes, it is also important to define what is meant by *region* here. The definitions of region differ in the literature on social sciences. However, as Karmazin, Costa-Buranelli, Zhang and Merke showed in their comprehensive overview of definitions of regions, four conditions seem to be inevitable for identifying the region in the world politics: region should be analytically distinguishable; the units that form it need to be close enough to enable interaction of people, capital, goods and security questions; interactional capacity; and lastly a geopsychological aspect – there is a complex web of ideal and social relations based on identities (Karmazin et al. 2014, 26).

The regional security complex theory is closely connected with the understanding of a region, but the distribution of power and amity/enmity patterns are stressed as the key components of the regional security complex. The theory evolved at the dawn of the Cold War, when Barry Buzan and Ole Waever noticed that security concerns don't travel well over long distances and they are in fact clustered in geographically shaped regions. Since the underlying presumption is that states cannot move and are permanently geographically situated, it is logical that distance matters in strategic interaction. It is therefore natural that security threats will most probably come from within a region. That creates security interdependence between the actors situated in it.

International regions do not just represent an intermediate level of analysis between the global system and the unit level; they are also an empirical phenomenon with historical and geopolitical roots. Therefore, the regional level is where the extremes of national and global security interplay and where the most of the action occurs. Buzan came up with the concept of regional security complex to define a "group of states whose primary security concerns link together sufficiently closely that their national securities cannot reasonably be considered apart from one another" (Buzan 1983, 106). However, in 1998 Buzan and Waever reformulated the definition to include the possibility of different actors and also several sectors of security<sup>2</sup> – not just military, but also political, societal and environmental. They ruled out the economic sector as being less influenced by geographic proximity due to the global economy. According to the reformulated definition, the RSC is a "set of units whose major processes of securitization, desecuritization, or both are so interlinked that their security problems cannot reasonably be analyzed or resolved apart from one another" (Buzan and Waever 2003, 44). This reformulated definition of regional security complex better suits the case of Western Balkans. Instead of a group of states it refers to the set of units, which makes it better applicable to the region given the contested statehood of Kosovo. It is this definition that will be used further in this paper.

The RSCs are defined by durable patterns of amity and enmity, taking the form of subglobal, geographically coherent patterns of security interdependence. The particular character of local RSC will often be affected by historical factors such as long-standing enmities or the common cultural embrace of a civilizational area (Buzan and Waever 2003, 45). In the words of Buzan, a security complex exists where a set of security relationships stands out from the general background by virtue of its relatively strong, inward-looking character, and the relative weakness of its outward security interactions with neighbors. A defining factor in a RSC is usually a high level of threat/fear which is felt *mutually* [sic] among two or more major states (Buzan 1991, 193). Buzan and Waever speak about *essential structure* of an RSC that is embodied by four variables:

- Boundary which differentiates the RSC from its neighbors;
- Anarchic structure – an RSC must be composed of two or more autonomous units;
- Polarity – the distribution of power among the units;
- Social construction – patterns of amity and enmity among the units (Buzan and Waever 2003, 53).

On the basis of these four variables they further define three ideal types of RSCs, which are defined according to their position on amity-enmity line:

- conflict formations (the main drivers of security interdependence are fear, rivalry, and mutual securitizations);
- security regimes (states have made arrangements to reduce security dilemmas among them, they constrain processes of mutual securitization);
- security communities (states have already desecuritized their relations and no longer expect or prepare to use force against each other) (T.V. Paul 2012, 39).

The RSCs are mutually exclusive and the whole world can be divided into RSCs and insulator states. This idea of mutual exclusivity of RSCs was questioned by Lake and Morgan, who elaborated on regional security complex theory. They allow for example Russia or USA to be a member of many RSCs. According to Lake and Morgan, the security relationships of consequence are the best guide to define membership in RSC, not geography (Lake and Morgan 1997, 30). The RSCs are durable, but not permanent, which leaves the possibility of change to the region. The authors of regional security complex theory saw three possible evolutions open to RSC: maintenance of status quo; internal transformation and external transformation (Buzan and Waever 2003, 53). As noted above, RSCs represent the sub-global level of a region's analysis and they are influenced by global dynamics. The external interference is therefore possible and can happen in two ways – by penetration (when external power influences power distribution by aligning with some of the regional actors) and overlay (when the external power is so strong that it temporarily suppresses indigenous security dynamics in the region).

### **The Balkans as a Regional Security Complex – The Evolution of Western Balkan RSC**

Drawing on previous definitions, is the Balkans a region? Is the Western Balkans an RSC? The Balkans was constantly associated with its location on the crossroads of Europe, Asia and Africa. It represented a physical exit from Europe to the Eastern Mediterranean basin that lies on the basic European route to the Indian Ocean and the regions of South Asia, the Middle East and Eastern Africa (Tzifakis 2003, 20–21). It was a borderland of greater powers for most of its history that often overlaid its natural security dynamics for the long periods of time (e.g. West Roman Empire, Ottoman Empire, Austro-Hungarian Empire, the Soviet rule). In the times that the overlay of greater power was lifted or decreasing, its natural dynamics surfaced. Intensive interaction between the Balkan states was manifested not just through the Balkan wars before the World War I, process of multilateral Balkan conferences afterwards, but also in violent ethnic wars that took place after the dissolution of Soviet Union and Yugoslavia. It is therefore no doubt we can distinguish it as a region.

According to the new reformulated definition by Buzan and Waever, the Balkans fulfills every condition to be a RSC. As Tzifakis wrote, the Balkan security complex of the 1990s was built around the confluence of four main national questions – the Albanian question (referring to the status and the living conditions of the Albanian communities outside the Albanian state); the Croatian question (aspiration of Croatian nationalists to restore Croatia in its historical borders); the Macedonian question (denoting the issue of the national affiliation of the people living in geographic Macedonia, which is divided between Greece, Bulgaria and Former Yugoslav Republic of Macedonia, shortened FYROM); and the Serbian question (Serbian people's association of their security with their coexisting in a single state rather than remaining divided between Yugoslavia, Bosnia and Herzegovina, Croatia and FYROM) (Tzifakis 2003, 23). These

questions were not isolated. On the contrary, they were closely interdependent and therefore fulfilling the definition of the RSC – the security concerns of the units could not be resolved apart from another. Their security interdependence was not a new pattern, even from the historical perspective it is possible to identify lines of conflict that interconnect Serbia, Croatia, Kosovo, BiH, Albania, FYROM, Montenegro, and if the blurry boundaries of the Balkan RSC would be extended, also Bulgaria and Greece (Stojar 2010, 14).

In the 1990s the borders of the Balkan RSC were demarcated by the disintegration of Socialist Yugoslavia. Countries that were affected by this trans-border externality were members – Albania, Bosnia and Herzegovina, Bulgaria, Croatia, FYROM, Greece, Romania and Yugoslavia (Serbia and Montenegro). Bosnia, Croatia and Yugoslavia were directly entangled in Yugoslav wars, other suffered from one or more aspects of the region's main national questions. Slovenia, Hungary, Moldova, Turkey and Cyprus were ruled out from the Balkan RSC, because they were not affected by the externalities of Yugoslav wars, the minorities of these countries didn't live in other Balkan states, and if they did, the original territories did not securitize the living conditions of their diaspora (Tzifakis 2003, 30).

Since the 1990s the Balkan RSC evolved and transformed into the current Western Balkan RSC. New entities emerged; some of the states that had been members of the Balkan RSC gradually loosened their ties with the region. Conflict over the Croatian national question was resolved by the Dayton Peace Agreement and the establishment of a multinational government in Bosnia and Herzegovina. The accession of several Balkan states to the EU (Romania and Bulgaria in 2007, and Croatia in 2013) further changed the Balkan RSC. With EU accession these states became members of the European security community,<sup>3</sup> which modifies their behavior. In 2006, Montenegro separated from the Serbia, creating two sovereign states. The NATO intervention in 1999 ended a war between Kosovo Albanians and Serbia, and Kosovo was made an international protectorate. However, it unilaterally declared independence in 2008, which resulted in a renewed tension with Serbia.

The answer to the question, who are the members of the current RSC, lies in the widely used, politically constructed term 'Western Balkans.' It was invented by the EU to label the former Yugoslav states, subtracting Slovenia and adding Albania, because they shared a common prospect of joining the EU (Stojarova 2010; Phinnemore 2013; Vesnic-Alujevic 2012). There is no doubt that Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro and Serbia are currently closely interlinked not just by their aspiration to access the European Union, but by major processes of securitization and security concerns as well. The membership of Croatia in the Western Balkan RSC becomes more problematic. It was originally included in the term Western Balkans. However, Croatia gradually started to be excluded from the Western Balkans countries, because of its faster progress towards accession, which resulted in acceding to the EU in 2013, before any other Western Balkan country (Stojarova 2010, 8). The rise of nationalism in the recent years, the political stalemate in Bosnia and Herzegovina and recent crisis regarding referendum about national holiday, or tensions in relations with Serbia (the affair with Croatian spy on the Serbian territory, war crimes allegations against Croatian defense minister, etc.) however show that Croatia is still interlinked with some members of the Western Balkan RSC. The same applies for Greece and Bulgaria, which have unresolved issues with Macedonia and are blocking its accession to the EU.

Drawing on the work of Cantori and Spiegel on subordinate systems and regional international relations, it is constructive to distinguish two levels in the Western Balkan RSC: the core and the periphery. The core of a given region consists of a group of states which produces a central focus of international politics in that region and share social, political and organizational background and activity. The periphery includes all those states within a subordinate system which are alienated from the core in some degree by economic, organizational, social, or political factors but which nevertheless play a role in the politics of the subordinate system (Cantori and Spiegel 1969, 371). Therefore, Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro and Serbia are at the very core of the Western Balkan RSC, with Bulgaria, Croatia and Greece as member states of the EU on its periphery. It is clear that the Western Balkan RSC has still not merged as a subcomplex into the European security community; its indigenous dynamics are only tempered by the western presence. The Western Balkan RSC can be characterized as a security regime, because entities in it made some arrangements to reduce security dilemmas among them. These include regional initiatives supported by EU such as MARRI, the Coalition for Regional Commission initiative (RECOM), the Brdo-Brijuni process and engagement in bi-lateral talks.

### **The Centrality of Kosovo in the Western Balkan RSC**

In the 1990s, the Serbian national question was located at the center of the regional conflict formation – Serbs shared enmity relationships with most of the Balkan nations (Albanian, Croatian, Hungarian, Bosniak, Slav-Macedonian) and the Serbian national question intersected with every major national question in the region (Tzifakis 2003, 71). Enmity relations between the Albanian minority in the former Yugoslav province of Kosovo and the center in Belgrade led to a destructive war in 1998-1999, which was ended by NATO intervention. Since Kosovo unilaterally declared its independence in 2008, Serbia has tried to prevent its recognition and later membership in international and regional organizations and does not recognize its sovereignty.

The fate of Kosovo is closely interconnected with the fate of Albanian minorities in Presevo Valley in Serbia, in Macedonia (and by that to the fate of Macedonia and Serbia in general), and can also negatively influence the stability and functionality in Bosnia and Herzegovina (Kursani et al. 2012). The Albanian minority living in Presevo Valley has always been organically linked to Kosovo, the local political parties have direct links to political parties in Kosovo and the position of Albanian leadership in the Valley has always been the reciprocity with Kosovo Serbs. The Albanian minority in the Macedonia gained more stable position in the Macedonian government and voices for secession are now limited. However, in case of deteriorating relations between Kosovo and Serbia, destabilization in Macedonia cannot be excluded.

The question of Kosovo is so important for the Western Balkan RSC that other neighboring states, like Montenegro, consider future developments concerning Kosovo as crucial for security and stability the region (Peci et al. 2014, 10). Moreover, the question of Kosovo is interconnected with the second center of instability in Western Balkans – Bosnia and Herzegovina. Its two-entity structure and mechanism of special parallel relations with the neighbors make it possible for Serbia to control everything that is projected as Serbia's interest in BiH. Serbian politicians see BiH as compensation for 'losing' [sic] Kosovo and Republika Srpska often assumes Serbia's obligations and points of view in connection with certain issues – like non-recognition of Kosovo. This has led to a paradoxical situation in which Serbia makes more and more concessions in the EU accession process, while the Republika Srpska blocks any prospect



of talks about the recognition of Kosovo in BiH (Krajsnik 2016). Thus, Kosovo-Serbia relation stands at the center of the Western Balkans RSC.

As it is stated in various places in the National Security Strategy of the Republic of Serbia, the Kosovo issue represents a major security problem for Serbia and the greatest threat to its security (Ministry of Defense of the Republic of Serbia 2009, 10). Firstly, the unilateral declaration of independence of Kosovo is perceived as a direct threat to the territorial integrity of the Republic of Serbia and one of the most serious security challenges in the region. It may set a precedent for separatist aspirations of other minorities not just in the country, but in the wider region, which is characterized by complexity and fragile peaceful coexistence. Secondly, insecurity and fear among the Serbian minority, stemming from their inadequate integration, ethnically motivated acts of violence and slow development of Kosovo's democratic institutions turn this part of the region into the main source of instability for the Republic of Serbia. Thirdly, Serbia projects Kosovo as a source of organized crime, particularly manifested in the areas of drug trafficking, human trafficking and illegal migrations, as well as in economic and financial sphere. The Serbian Ministry of Defense also cites Kosovo as a risk for the proliferation of conventional weapons and the possibility of proliferation of weapons of mass destruction and potential source of terrorist activity (Ministry of Defense of the Republic of Serbia 2009, 11). Lastly, the territory of Kosovo is important for Serbian history and national identity, because it represents the cultural cradle. The Battle of Kosovo in 1389, so important for the Serbian identity, took place near today's city of Pristina and there are also many cultural and historical monuments on the territory of Kosovo. A loss of this territory to Muslim Albanians may pose a threat to the Serbian identity.

For Kosovo, Serbia represents a major security threat. By not recognizing its sovereignty and questioning the right of Kosovar Albanians for their own state (Petrovic and Petrovic, 2014) Serbia is undermining the possibility of regional cooperation for Kosovo, complicating the creation of functioning administrative structures and threatening the identity of Kosovar Albanians. The cultural and economic oppression of Kosovo Albanians and their massive killings in former Yugoslavia and during the Yugoslav wars are the main sources of distrust towards Serbia and of existential fear to belong once again under the Belgrade's rule. Secondly, potential securitization of the living conditions of the Serb minority on the territory of Kosovo combined with the great disproportion of military capabilities between the two countries constitute a direct threat to Kosovo. Moreover, there is a fear among Kosovo Albanians that through the Serb minority in northern Kosovo, Serbia will control the entire territory.<sup>4</sup> More than 66 percent of Kosovo Albanians considered Serbia a security threat to Kosovo in 2015 and more than 80 percent expressed their view of Serbia as being very hostile in year 2016 (Kosovar Centre for Security Studies, 2016).

## Brussels Process – Results, effectiveness and obstacles to progress

The unilateral declaration of independence of Kosovo on 17 February 2008 caused a deterioration of relations not just between Kosovo and Serbia, but also between Serbia and neighboring states, and Serbia and EU. Diplomatic representatives of Serbia were recalled from the neighboring countries that recognized Kosovo and Serbia's path to EU was questioned. On 8 October 2008 the UN General Assembly adopted a resolution, initiated by Serbia, to request a non-legally binding advisory opinion of the International Court of Justice (ICJ) on whether the unilateral declaration breached the international law (UN General Assembly, 2008). The answer came on 22 July 2010, when the ICJ concluded that the declaration of independence did not violate international law. The opinion smoothly avoided a decision on the legality of Kosovo's statehood (ICJ 2010, 14). However, Serbia announced that it would not only continue to oppose Kosovo's independence, but would also seek a new General Assembly resolution calling for renewed status talks (Economides 2015, 1033).

However, under strong pressure from the EU and the worsening economic situation of Serbia, Belgrade withdrew its initial resolution on 8 September 2010 and tabled a new resolution co-sponsored by the EU which would acknowledge the ICJ advisory opinion. Most importantly, the new Serbian resolution called for EU-backed dialogue between Belgrade and Pristina (Ejdus 2014, 2). This was a major turning point – Serbia agreed to address the issue outside of the relatively safe arena of UN, where it had strong backing from Russia, and move it to the EU, which under its enlargement allure started to slowly redefine Serbia's Kosovo policy. Moreover, for the first time, Serbia agreed to deal not just with UNMIK and EULEX officers, but with the Kosovo representatives themselves.

### Technical Dialogue – an Overview

The EU decided not to address the key question of the status of Kosovo, but first to engage actors in a dialogue over technical issues. As Bieber writes, topics were chosen because they had practical consequences for people in Kosovo and were at the same time not linked to statehood and lacked any symbolism (Bieber 2015, 300). Thus, the so-called technical dialogue began on 8 March 2011 and lasted until May 2012. Senior British diplomat Robert Cooper mediated on behalf of the EU the technical dialogue between Serbia and Kosovo, represented by Borko Stefanović and Edita Tahiri respectively (Ejdus 2014, 2).

The first agreements were reached on 2 July 2011, on the fifth round of the dialogue and addressed the issue of civil registry books and freedom of movement. In particular, the parties agreed to establish a fully reliable civil registry in Kosovo and to establish a civil registry committee consisting of experts from two parties and from EULEX. The committee would identify gaps in missing original pre-1999 civil registry books, while EULEX would certify all original copies of civil registry books from Kosovo (All agreed conclusions 2 July 2011, 2). Although the implementation of this agreement had a slow start, it is one of the few that has been fully implemented and both sides regard it as completed (Government of the Republic of Serbia 2016; Government of the Republic of Kosovo 2016).



The agreements regarding freedom of movement promised free travel for residents of each party through the territory of the other not just by applying ID card system for cross border/boundary travel, but also by accepting driving licenses issued by other authorities. Serbia should enable vehicles from Kosovo bearing KS or RKS license plates to travel freely through its territory. Interim solution of purchasing border/boundary insurance for residents of each party was provided, with a promise to continue working on commercial arrangements for mutual vehicle insurance cover (All agreed conclusions 2 July 2011, 1). However, this agreement has not been fully implemented. No progress has been made in removal of temporary license plates; and Serbia still issues Serb registration plates and ID cards in northern municipalities.

The Agreement on reciprocal acceptance of university diplomas was also reached on 2 July 2011 and was finalized on 21 November 2011. The agreement stipulates the acceptance of university diplomas by the European University Association (EUA). The association will certify the diplomas issued by both parties by appointing the Committee of European Academic experts and in effect the diplomas should be mutually accepted by both parties (Deda and Qosaj-Mustafa 2013a, 9). Regarding this agreement, no substantive progress has been made.

On 2 September 2011 two new agreements were reached – on custom stamps and cadastral records. The parties agreed to ensure free movement of goods in accordance with CEFTA and acceptance of the Custom stamps stating ‘Kosovo Customs’. This agreement is also among the few ones that are considered fully implemented. Agreement on cadastral records is similar to the issue of the Civil Registry Records – it aims to establish fully reliable cadaster in Kosovo and to solve the problem of missing Kosovo Cadastral Records, taken by Serbia in June 1999 (All agreed conclusions 2 July 2011, 5–6). Contrary to the civil registry records, this agreement has not been fully implemented yet; however there is some visible progress.

The Conclusions on arrangements regarding regional representation and cooperation of Kosovo were agreed on 24 February 2012. Both parties express their commitment to effective, inclusive regional cooperation. This agreement is generally viewed among Kosovo Albanians as a step back, as it accepts status of Kosovo unresolved – only denomination to be used within framework of regional cooperation is according to agreement Kosovo with an asterisk and a footnote that reads “*This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and ICJ Opinion on the Kosovo declaration of independence.*” (All agreed conclusions 2 July 2011, 8). This agreement is one of the most problematic and its implementation is very slow. Serbia often tries to prevent Kosovo from getting membership in regional or international organizations or uses Bosnia and Herzegovina to obstruct application process. Even after Kosovo obtains memberships in some organizations, Serbia boycotts it by cancelling its participation when Kosovo is present – like in May 2016 on OSCE Conference for Economic Cooperation (Government of the Republic of Kosovo, 2016).

Although the agreement on IBM was reached during the last two rounds of technical dialogue in December 2011, its implementation commenced only a year later in December 2012 after the political dialogue between prime ministers had begun. The agreement established mutual control of administrative boundary lines/border crossings between Kosovo and Serbia. However, the presidential and parliamentary elections in Serbia of May 2012 stalled the implementation of this agreement and the implementation had to wait until beginning of the political dialogue in October 2012 (Deda and Qosaj-Mustafa 2013a, 12).

As Ejodus points out, the technical dialogue was in general more beneficial to Pristina than to Belgrade. Technical agreements were only marginally addressing the key concerns of Serbia related to the North and Kosovo Serbs (Ejodus 2014, 2). They were mostly practical issues of greater (e.g. IBM, cadaster, civil registry) and lesser significance (e.g. university diplomas) carefully chosen not to touch the soft spots of problematic statehood and to gradually build trust in the dialogue. Paradoxically, unlike the subsequent political dialogue, which had broader political support, the technical dialogue had pitted the entire opposition, civil society and independent media in Kosovo against the process and also against the Government. Apart from the Vetevendosje party that was strictly against the dialogue with Serbia, other opposition parties mostly opposed the approach of Kosovo government, who did not consult before its actions; neither had it tried to explain the dialogue process to the public or to the opposition parties. There was also a general fear that Serbia was using the dialogue for its own political intentions (Đorđević et al. 2014, 2 and Development Group, 2012, 6). There was strong domestic opposition in Serbia at the beginning of the technical dialogue as well, however the dialogue continued. There have been also loud protests from the side of Serbs living in northern Kosovo that erupted after Pristina attempted to place its officials at two crossing points between Kosovo and Serbia. In retaliation, the Serbs living in the north of Kosovo established a number of barricades to block roads into the south, leading to a number of clashes between local Serbs and NATO peacekeepers (Economides and Ker-Lindsay 2015, 1034). However, pressure from EU slowly put all parties in line, so the technical dialogue could continue and evolved into a political dialogue in October 2012.

### **Political Dialogue – an Overview**

The presidential and then parliamentary election in Serbia in May 2012 meant a pause in the dialogue between Kosovo and Serbia. At the same time it was by 2012 clear that the implementation of technical agreements, especially the more sensitive ones, will not be successful without a larger political settlement. Fortunately, the new Prime Minister Ivica Dačić and his government soon proved not just to be committed to EU accession and dialogue with Kosovo, but also showed a bolder approach towards Pristina than his predecessors (Economides and Ker-Lindsay 2015, 1035). Thus, the EU seized the opportunity and it was decided that the talks would take place between the two prime ministers, Hashim Thaci and Dačić, and would be mediated by High Representative of the Union for Foreign Affairs and Security Policy Catherine Ashton.

The first meeting took place in October 2012 in Brussels. Among first conclusions that Thaci and Dačić agreed on in December 2012 was the establishment of liaison officers who would act as representatives of their countries in their respective EU missions; creation of multiethnic Kosovo Police special unit to protect Serb Religious and Cultural Heritage; and arrangement on the IBM – important leftover from technical dialogue. However, the naming of liaison officers did not go without a problem – while Kosovo appointed a former ambassador, Serbia appointed only a junior official (Bieber 2015, 305; Deda and Qosaj-Mustafa 2013b, 4). According to the European Commission Serbia Progress Report from 2014, liaison offices have had only a limited impact so far. Regarding the special police unit, Kosovo Police created it in April 2013 and it consists of 200 officers.

On 17 January 2013, building on the agreement on IBM reached in December 2012, the two prime ministers provisionally agreed on the ways of collection of customs duties, levies and value added tax (VAT). The EU maintained Kosovo as a single customs zone, but agreed to create a Fund for economic and infrastructural development of northern Kosovo, jointly overseen by the Kosovo government, the EU, and a representative of northern Kosovo (Deda and Qosaj-Mustafa 2013b, 8). The conclusions came at the time of the implementation at four crossing points of the IBM agreement.

The high-level dialogue culminated on 19 April 2013 with the 'First Agreement on Principles Governing the Normalization of Relations,' usually referred to as the 'Brussels Agreement.' The 15-point Agreement is historic in the sense that it is the first agreement between the Kosovo and Serbia, and not just between one of them and international community (Mehmeti 2013, 9). Although the Serbian side denies the Agreement means recognition of sovereign Kosovo (Petrovic and Petrovic 2014), it is at least first sign of Serbia dealing with Kosovo on equal terms.

One of the most important provisions of the Agreement is the Association/Community of Serb majority municipalities in Kosovo. Six of the 15 points in the Agreement are devoted to its establishment, status, competences and position towards the central government (First Agreement on Principles Governing the Normalization of Relations 2013). The Association/Community will receive legal guarantees from Kosovo and Serbia, and an initial governing authority over five areas: economic development, health, education, urban and rural planning, with possibility of gaining additional competences in the future.

The new legally defined region of four northern municipalities will have its own regional police commander, while the second instance court – the Appellate Court – will be divided through the establishment of a separate panel of Kosovo Serb judges which will deal with all Kosovo Serb majority municipalities (Deda and Qosaj-Mustafa 2013b, 9). The municipal elections were agreed to take place in 2013 with the facilitation of OSCE and in accordance with Kosovo law. They were facilitated and monitored by the OSCE mission with NATO and EULEX support, and they were smooth and generally successful.

Important is also the 14<sup>th</sup> point of the Agreement, because of its bilateral character – it says that “neither side will block or encourage others to block the other side’s progress in their respective path to the EU” (First Agreement on Principles Governing the Normalization of Relations 2013). In Kosovo it is often considered as an implication that Serbia indirectly recognized its statehood, as only states can become members of EU. However, this opinion is strongly rejected by Serbia. Differing views and interpretations of agreements are symptomatic for the dialogue between Belgrade and Pristina, because they are the direct result of the ‘creative ambiguity’ the EU adopted to bring both sides together.

The EU rewarded both Serbia and Kosovo for their progress. On 28 June 2013 the European Council decided to open accession negotiations with Serbia latest by January 2014 and authorized the opening of negotiations on a Stabilization and Association Agreement with Kosovo (European Council 2013, 12). The EU had narrow time-frame to seize the opportunity and come to some tangible results in the negotiations, given the fact that in 2014 there were European Parliamentary elections, as well as general elections in Kosovo and Serbia.

The international community generally refers to Brussels Agreement as a major breakthrough. However, opposition parties both in Serbia and Kosovo challenged it. The Kosovo government officials misled the public opinion by a very poor public communication from the very beginning of the dialogue, lacking transparency, untrue public statements, and an overall defensive tone. The government officials used hard rhetoric to convince the public that they would never engage in political dialogue with Serbia, that they would never talk about the north of Kosovo, and that they would never accept any internal rearrangement (Deda and Qosaj-Mustafa 2013b, 4). The lack of clear information and lack of ownership of the dialogue caused resistance from the public, which felt that the Brussels negotiations were “about them, but without them” (Economides and Ker-Lindsay 2015, 1035). The Serbian side was not any better in providing clear and concrete information. Moreover, Serbs in northern Kosovo also expressed great dissatisfaction with the agreement. Most Kosovo Serbs don’t recognize Kosovo government and don’t respect it as eligible authority to negotiate about their destiny, however they also feel that Belgrade is instrumentalizing them for its own interest. The Brussels Agreement eliminated – or at least vastly lessened – their chances of reunification with Serbia. Newspapers speak about the Kosovo Serbs feeling of betrayal from Serbia and having been excluded from the negotiating table with the European Union (Douçot-Rubigny 2014, 160).

### **Situation after the 2014 elections – Political stalemate and slow implementation**

The elections in 2014 brought a new EU High Representative for Foreign Affairs and Security Policy – Federica Mogherini, and also new prime ministers – Ivica Dačić was replaced by Aleksander Vučić and Hashim Thaci was replaced by Isa Mustafa. In 2015 the three new partners met to continue the dialogue and they finalized four key agreements: energy, telecoms, establishment of the Association/Community of Serb majority municipalities and principles of its existence as well as the Freedom of Movement/Mitrovica Bridge (European External Action Service 2015). However, implementation of two of these agreements faces a stalemate – Serbia is blocking the start of operation of KOSTT (Kosovar Electricity Transmission, System and Market Operator) by not fulfilling its part of obligations; Kosovo on the other side did not implement actions regarding Association/Community. The agreement on a dialing code for Kosovo was reached on 13 November 2016. The International Telecommunication Union awarded Kosovo its dialing code on 15 December 2016 as a geographic region, without recognizing its statehood (B92 2016). The revitalization of the symbolic Mitrovica Bridge that divides ethnic Serbs and Albanians in North Mitrovica has finally begun on 14 August 2016 (Radio Free Europe 2016). However, political tension in Mitrovica, when local Serb authorities started building two-metre-high concrete wall near the bridge, have helped to delay the reopening of the renovated bridge and it is unclear when it will be finished (Isufi 2017).

New conclusions regarding Association/Community caused massive unrests and protest. While it remains unclear whether or not the Association/Community will be based on existing Kosovo legislation or if the laws need to be amended, Kosovo Albanians believe it goes far beyond what was originally agreed on in the Ahtisaari Plan and worry that it introduces an additional level of governance into the contested state that could possibly hamper its fragile functionality and threaten their sovereignty. Vetevendosje and some analysts in Kosovo are afraid the Association/Community is just a tool for Serbia to control the northern part of Kosovo and through that, its entire territory.<sup>5</sup> On the other side, Kosovo Serbs are afraid that Association/Community

would make them subordinate to Kosovo Albanians. The opposition pointed out that the 2015 agreement is unconstitutional and demanded that the Kosovo Government withdraw from it. As the government refused to even consider withdrawing, the opposition embarked on various forms of protest – from collecting signatures in support of this demand, through street protests, to using tear gas to block parliamentary sessions, however, none of these changed the stance of Government (Prishtina Insight 2016).

In order to break the political deadlock, the president of Kosovo asked the Constitutional Court to rule on whether the principles agreed upon in August 2015 are compatible with the spirit of the Constitution. The Court published its judgment in December 2015 and concluded that they are not in line with Kosovo constitutional standards – especially with the chapters regarding fundamental rights and freedoms, and rights of minorities. However, the Court ruled that the Association/Community should be established and the statute implementing the principles should correct the problematic parts in order to meet Kosovo's constitutional standards (Constitutional Court of Kosovo 2015). The ruling of the Constitutional Court did not reduce the tension and the political crisis continued through 2016, where opposition parties demand stepping down of the Government (Independent Balkan News Agency 2016).

The implementation of reached agreements is generally very slow. As a report recently illustrated, only four of the 17 agreements reached between Kosovo and Serbia since the technical dialogue began in 2011 have been implemented in full (Balkan Insight 2015). The large delays in implementation are becoming almost standard. According to the European Commission's 2016 Report on Serbia and European Commission 2016 Report on Kosovo, progress in the dialogue was limited, due in part to the electoral processes in Serbia and the domestic situation in Kosovo. However, momentum was regained in August 2016 with the start of the work on the Mitrovica bridge and freedom of movement. The report noted that the key outstanding issues were implementation of the agreement on representation and participation of Kosovo in regional forum. Little progress was noted in the field of energy (European Commission 2016a, 24; European Commission 2016b, 32). From the three permanent crossing points agreed within the framework of IBM the work has yet begun on only one – Merdare, on 16 February 2017 (Popova 2017).

As Kosovo Minister of Foreign Affairs Enver Hoxhaj said during a personal interview, Serbia often complicates the implementation process by renegotiating what has been already signed and not implementing its part of the agreements.<sup>6</sup> The situation is more complicated by the fact that while Kosovo ratified the First Agreement as international agreement that supersedes the Constitution, Serbia considers it as a domestic political act and therefore is not strictly bound to its implementation.

The differing views on the character of the Brussels Agreement is not the only example of creative ambiguity reaching its limits in the normalization of relations between Kosovo and Serbia. As Đorđević, Ejduš, Malazogu and Nič rightly pointed out; the very vagueness that brought former enemies together has hobbled the implementation, hides serious disagreements and is a direct source of lack of implementation (Đorđević et al. 2014, 1–2). The vague language (e.g. Integrated Boundary/Border Management, Association/Community of Serb Municipalities) that made dialogue possible by providing space to understand it as they wished, is slowly beginning to be unconstructive.



The ambiguity becomes a major problem not just regarding the concrete texts of the agreements, but regarding the normalization of relations in general. It is true that the vaguely constructed agreements complicate their practical implication, but they are part of the more general ambiguity – that is, what exactly is meant by normalization. What will be at the end of the dialogue? Is it recognition of the sovereignty of Kosovo? Is it a peaceful cooperation of both entities? As senior analyst from a Serbian think-tank rightly pointed out: “The more everyone abstains from defining it in practical, tangible, operational terms, the longer the process of normalization will go on”.<sup>7</sup> Similar voices can be heard in Kosovo as well – the aim of the process, the definition of normalization needs to be clarified in order to reach it. The question is, how long can the process of dialogue continue in this ambiguity with Kosovo Albanians getting tired of seeing no tangible results and Kosovo Serbs being in a similar situation as years ago? As an analyst from Kosovo said: “So far we don’t see any normalization. The only good thing that came through the dialogue is the freedom of movement and cooperation between businesses”.<sup>8</sup> A Serbian analyst also emphasized that though some aspects of everyday life of Kosovo Serbs and Kosovo Albanians were simplified thanks to the agreements, namely regarding the freedom of movement, security aspects have not improved for Kosovo Serbs.<sup>9</sup>

Although we can speak of partial success of Brussels dialogue, because Kosovo and the Republic of Serbia moved from non-cooperation to a political dialogue, there are no signs of functional normalization of relations between the two entities. The only visible results of the dialogue are civil registry books, custom stamps, freedom of movement to a degree, and the exchange of liaison officers. Kosovo is still not properly cooperating with its neighbors; its membership in regional or international organizations is strongly fought against by Serbia and it still hasn’t gotten full control over its territory.

The relations on the political level may have eased to some extent, but this has come at the expense of weakening the constituency for moderate Serb parties in favor of new nationalist factions (Srpska Lista) that are directly controlled and supported by Belgrade (Visoka and Richmond 2016). Moreover, blind support for few power-holders that could provide short-term results at the expense of internal legitimacy and democracy extinguished moderate opposition voices inside Kosovo also on the Albanian side. This democratic deficit in combination with the lack of transparency, ambiguity and seeing no tangible results is creating lot of tension in fragile Kosovo.

## **Prospects of the Western Balkan RSC**

### **Normalization depends on the International Environment**

The prospects of the normalization process depend hugely on two factors – the international environment and the willingness of both actors. Both adversaries lack genuine intent to resolve the conflict on the basis of mutual understanding and cooperation. That unwillingness contributes a great deal to the little progress achieved in the normalization. The dialogue is used in more pragmatic way, as a tool to achieve economic and security goals. As an analyst in Kosovo said, the process is not locally driven, and owing to the public statements of Kosovar elites it is perceived as externally imposed.<sup>10</sup> Regarding Serbia, the EU made it clear that engagement in

the process of dialogue with Kosovo and some progress in it are necessary conditions for Serbia's accession into the EU. It is important to note that Serbia was after the elections in 2008 building closer links with Russia and China and yielded to EU pressure only after significant economic downturn due to the international crisis. Only then has EU come to be seen as key to national economic growth (Economides and Ker-Lindsay 2015). The allure of EU membership is the main driver of the dialogue for both parties. However, as a senior official from EEAS admitted, path to the EU is right now more open for Serbia than it is for Kosovo.<sup>11</sup>

One of the main reasons are five member states that don't recognize Kosovo – Cyprus, Greece, Romania, Slovakia and Spain. Because of them, the EU can only acknowledge Kosovo's clear EU perspective (Vesnic-Alujevic 2012), but cannot extend an invitation for candidature. However, even the prospects of Serbian accession are not so bright, because of two main factors – enlargement fatigue voiced by Jean-Claude Juncker in 2014 when he announced what many interpreted as five-year halt on enlargement; and Brexit, which experts predict will slow the enlargement down even more (EurActiv 2016). As senior official from EEAS foreshadowed, at the end of the accession process with Serbia some more comprehensive agreement regarding Kosovo should come.<sup>12</sup> Yet with the current situation in EU it is questionable if it will be enough and if the EU would be actually able to push through an ultimate resolution on the status of Kosovo. The presence of five non-recognizers lessens the leverage the EU has not just over Kosovo, but over Serbia as well. The EU does not act like a unitary actor with a comprehensive strategy towards Western Balkans, but rather like a group of states with differing views. This discrepancy had made the European Community unable to react promptly in the 1990s and the same lack of a unified approach towards Western Balkans is still present.

Even the participants of the dialogue don't have a common view of the future of normalization or its main channel, the Brussels dialogue. Kosovo's Minister of Foreign Affairs Enver Hoxhaj sees the next phase as a continuation of the talks in current format, but with limited goals, time frame and resulting in mutual recognition at the end.<sup>13</sup> Voices calling for recognition as a core of the normalization of relations are heard also from Kosovo's strongest opposition party Vetevendosje, however with more pessimistic vision of the future – that the dialogue will not bring normalization, Kosovo should start fighting for itself and not give up what is essential in order to normalize relations with Serbia.<sup>14</sup> Needless to say, the recognition of sovereign Kosovo is clearly not in the interest of Serbia. As a senior analyst from a Serbian think-tank expressed:

*Full-fledged normalization of relations between Kosovo and Serbia is possible, but both sides need to give up on something and it seems to be the territory. Because so far the 'normalization' [sic] is just another form of unyielding struggle in which Serbs are gradually losing physical presence on the fringes of their enclaves, while Albanians are gradually losing their patience. The outcome will depend on the international context.*<sup>15</sup>

Serbia will go as far in the dialogue as necessary for EU accession. Yet with the current internal turmoil in the EU, the lack of the EU's clear comprehensive approach to the Western Balkans and lack of genuine willingness to normalize their relations, it is disputable how much the EU alone would be able to push both parties. When a senior official from EEAS was asked about the prospects of the dialogue and normalization, he answered: "We cannot push them, we can just facilitate. There are still issues that need to be solved and also EU accession process will bring



new topics. But we can go just with small steps.”<sup>16</sup>

There are two other powerful stakeholders interfering in the Western Balkan RSC – Russia and the USA. Serbia is balancing the influence of the EU with close ties to Russia, especially in the defense cooperation – the Joint Serbian-Russian Centre for Reaction to Emergency Situation was established and Serbia holds an observer status in CSTO. USA has been supporting Kosovo’s independence for years and this kind of unquestioning support has arguably extinguished moderate Albanian or Serb alternatives to the current ruling elites in Kosovo, which are compromised in the eyes of the public. The strongest alternative to the ruling PDK and LDK parties is currently Vetevendosje, with strong nationalistic and anti-dialogue rhetoric.

### **Prospects of Western Balkan RSC – Possibility of Transformation**

As Barry Buzan and Ole Waever wrote in their elaboration on regional security complex theory, there are three possible evolutions of a RSC: maintenance of the status quo, internal (changes in the essential structure within the context of its existing boundaries) or external (changes of the boundaries of RSC) transformation (Buzan and Waever 2003, 53). Currently, the Western Balkan RSC maintains its status quo. It doesn’t mean no change has taken place, but rather that the changes did not seriously alter the essential structure – the distribution of power and/or amity/enmity patterns. As elaborated previously, even the most successful initiative so far – the EU sponsored dialogue between Belgrade and Pristina – did not manage to significantly change neither the distribution of power between Kosovo and Serbia, nor the enmity pattern. So far the essential structure of the RSC hasn’t been changed.

However, there is a possibility of internal transformation, i.e. change to the essential structure within the boundaries of RSC. Such a change can come about as a result either of decisive shifts in the distribution of power or major alternations in the pattern of hostility, because of the resolution of an existing dispute or the emergence of new ones (Buzan 1991, 217). The core hostility can be resolved from the inside or from the outside by the intervention of external actors. Given the lack of will on the side of both actors to genuinely normalize their relations, resolution from the inside would require a change in perspective facilitated by new leadership, or a change in conditions.

Regarding resolution from the outside, Buzan writes that as a rule, external actors have a lesser impact on the pattern of local hostilities than they do on the distribution of power. They can join the complex or align with some of its members; they can change the rate of development of RSC members or add to the power of the state in different ways. However, external actors tend to align with the local pattern of hostility, because it is the easiest way to penetrate a RSC, and they usually fall short when they go against the grain of local alignments (Buzan 1991, 214). Attempts to disrupt the local enmity patterns don’t have a good record, especially when the external powers are highly divided among themselves. This explains why EU didn’t succeed yet in resolving the Kosovo issue, given the discrepancy between its members and Russia trying to establish its presence in the Balkans. The alignment of more external actors with division among themselves just amplifies the conflict. The surest way that external actors can hope to effectively change the local patterns of hostility is when they resort to direct overlay of the local complex – that is they impose their own presence on the countries concerned (Buzan 1991,

215). However, the overlay is a risk for any external power, because it is not a normal process of intervention by great powers into local complexes, but rather a complete suppression of indigenous security dynamics. A great example is Europe during the Cold War – the competition between the USSR and USA completely suppressed European regional conflicts.

Nevertheless, internal transformation is possible in three ways. First, both Serbia and Kosovo will change their perspective on normalization and genuinely work towards resolution of the conflict. Second, the current discrepancy between the external actors continues, but the distribution of power significantly changes (due to increased support from external stakeholder/s), the conflicts are amplified and move the Western Balkan RSC from its current security regime to conflict formation, where conflictual relations motivated by fear dominate. Third, external actors unify their approach, join the complex and push parties to resolve the conflict without overlay, which will then change the enmity pattern.

There is also a possibility of external transformation of the Western Balkan RSC. The essential structure of the complex can be altered by expansion or contraction of its boundary. Minor changes in boundaries (like border demarcation agreements) will not affect the essential structure. However, the accession of one or more states to the EU and therefore the merging of the state/s with the European security community would change the essential structure of the Western Balkan RSC. However, the possibility of all the members of Western Balkan RSC accessing the EU together is very small given the problematic position of some Western Balkan entities (Kosovo with contested statehood, Macedonia blocked by Greece and Bulgaria, BiH's instability). There is greater possibility that a few western Balkan states accede the EU, however given the enlargement fatigue and Brexit it is not likely to happen in near future. In sum, the likely prospects of the Western Balkan RSC are that it will either maintain the status quo or its internal transformation will be influenced by shifts in power and the interests of both internal and external actors.

## Conclusions

The article argued that the Western Balkans is a distinct regional security complex with a core, consisting of Albania, BiH, Kosovo, Macedonia, Montenegro and Serbia. These entities are closely interlinked by lines of securitization; and a periphery, where we can identify Bulgaria, Croatia and Greece which are interdependent in terms of security with countries located in the core of the RSC. Relations between Kosovo and Serbia stand in the center of this RSC and the normalization process between the two actors can have ramifications for the whole Western Balkan RSC. The analysis of the most successful channel of the normalization – the Brussels dialogue, revealed only partial progress. Political relations may have been eased, with both parties moving from non-cooperation to some degree of cooperation. The lives of both Kosovo Albanians and Kosovo Serbs were slightly improved by the few implemented agreements (regarding civil registry, custom stamps or freedom of movement). However the actual normalization of relations –whatever that actually means – has not taken place yet. There are two main reasons for that – the lack of genuine intent of both parties to resolve the conflict and the discrepancy between external actors involved in the RSC. The Brussels process had no major effect on the character of the Western Balkan RSC, which maintained its status quo.

The evolution of the RSC is highly influenced by the will of adversaries to continue with the dialogue and the international environment – namely by the situation within the EU, by the mutual relations of Russia, USA and EU and their approach to the RSC. As Buzan and Waever wrote, attempts to disrupt the local enmity patterns don't have a good record, especially when the external powers are highly divided among themselves (Buzan and Waever, 2003). If the external actors align with the members of the RSC, but they have division among themselves, it tends to amplify the conflict. There is a possibility of internal transformation of the RSC by either resolution of the conflict or amplifying it. In both instances the will of both local leadership and unity of external actors play a significant role.

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## (Endnotes)

1. Author's interview via phone with a senior official of the European External Action Service (EEAS), 22 November 2016. All interviews were conducted in confidentiality, and the names of interviewees are withheld by mutual agreement.
2. The idea of sectors comes from the widening agenda of security studies. It implies ways of identifying specific kind of interactions. The traditional perspective considers only relationships of forceful coercion – ie. The military sector of security. Other sectors stem from the wider understanding of security. The political sector is about relationships of authority, governing status, and recognition; the economic sector is about relationships of trade, production, and finance; the societal sector is about relationships of collective identity; and the environmental sector is about relationships between human activity and the planetary biosphere (Buzan and Weaver, 2003, p. 45-46).
3. The term security community was originally used by Karl Deutsch to describe groupings of states, tied together through common values and transnational links, that reject violent conflict as unthinkable. It is also the ideal type of RSC according to Buzan and Waever that is closest to the amity on the enmity-amity spectrum of relations between states.
4. Authors interviews, 27 October 2016, Pristina
5. Author's interviews, 27 October 2016, Pristina
6. Author's interview with Kosovar Minister of Foreign Affairs Enver Hoxhaj, 24 October 2016, Pristina.
7. Author's interview via email with a senior analyst from a Serbian think-tank, 21 November 2016.
8. Author's interview with a Kosovar analyst, 24 October 2016, Pristina.
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11. Author's interview via phone with a senior official of the European External Action Service (EEAS), 22 November 2016.
12. Author's interview via phone with a senior official of the European External Action Service (EEAS), 22 November 2016.
13. Author's interview with Kosovar Minister of Foreign Affairs Enver Hoxhaj, 24 October 2016, Pristina.
14. Author's interview with Glauk Konjufca of Vetevendosje, 25 October 2016, Pristina.
15. Author's interview via email with a senior analyst from a Serbian think-tank, 21 November 2016.
16. Author's interview via phone with a senior official of the European External Action Service (EEAS), 22 November 2016.



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# Russia in the Balkans: A View from Kosovo

**Cosmin Ioniță**

## **Introduction**

For some Europeans, Kosovo represents the very essence of the Balkans. It has several unresolved issues that should be addressed soon and in a very convincing manner in order to improve the European security environment. Despite the fact that it was recognized by most of its neighbors, Kosovo is still regarded as “a state less than a state” and frustration has increased internally.<sup>1</sup> With a historical footprint in the Balkans and a permanent struggle to define its position in and towards Europe (Baranovsky 2008), Russia has been more and more interested in increasing its role in deciding the future of the states that emerged from the collapse of Yugoslavia. While much of the scholarly effort so far has been directed towards Russian influence and positioning in Kosovo’s recognition process, this paper does not focus on Russian foreign policy per se, but examines the Kosovar perception of Russian foreign policy.

Split without consent from Serbia and just partly recognized internationally since 2008, Kosovo has faced mostly hostile reactions from Russia. Much of the perceptions between Moscow and Prishtina are based on stereotypes and little progress has been recorded since 2008. Within this frame, the current research aims to bring more insight, through the Kosovar perspective, on the foreign policy of Russia in the core of the Balkans. Despite the assumption that Prishtina has no possibility to influence international policy decisions in Russia, this research sought to

determine if there are topics on which the communication between Russia and Kosovo might improve. Therefore, three questions are addressed by the current research: (1) How has Kosovo viewed the Russian policy until the withdrawal of the Russian troops from Kosovo? (2) How has Kosovo perceived the Russian policy regarding Kosovo's unilateral declaration of independence? (3) How can the relations between Russia and Kosovo be improved?

Choosing Russia as a case study for this research was triggered by the argument that Moscow represented the main vector for the non-recognition of Kosovo. Scholars have consistently focused on the "uniqueness" of the political thinking when it came to Kosovo.<sup>2</sup> In the Russian media and historiography, Kosovo has been regarded as "the first experiment of the creation of a new world" (Dubnov 2013).<sup>3</sup> The Russian political thinking considered the "West" responsible for opening Pandora's Box and the US was regarded as the real vector and a constant pressure on European partners. Such a position eliminated the European actors from the table, which is not entirely correct.<sup>4</sup> Most of the people in Kosovo shared the same approach, as Kosovo embraced the relationship with the US and Russian plans to increase Moscow's influence in the Slavic and Orthodox dominated region seemed undermined (*Interfax* 2007). The process was long in the making, because the war in 1999 meant a prestige loss for Russia for anyone willing to see it (Levitin 2000, 130).

Assessing Kosovo's perception of the Russian foreign policy required many resources. Exploring what constituencies (political, security, economic) think of the Russian foreign policy towards Kosovo and the Balkans proved to open too many unhealed wounds. What was probably the most striking aspect of the current analysis was the fact that the subject chosen is a non-subject in Kosovo. The history, the war in 1999 and the years since then have all encouraged Kosovo not to think of Russia. In a mission to avoid any painful outcome, the people in Kosovo show a vivid will to bypass Russia.

This analysis was done with data from UNMIK media monitoring in Kosovo, as well as academic and media sources in English, Russian and Serbian languages. The data collected ensured the framework for perception collecting with representatives from Albanian, Serbian and Bosniak communities in Kosovo. Almost two thirds of the interviews conducted in October and November 2016 were in the general interview guide approach (15) while the others were informal interviews (8). One Bosniak, three Serbian and nineteen Albanian representatives were interviewed and the average duration for each discussion was around 40 minutes.

If perceptions were clearly expressed during the interviews, verifying "facts" was done by most people in a personal manner. The history has already provided the framework and the people pick from it what they believe can answer their quest for "justice" when it comes to Russia. In this regard, fewer perceptions were collected from the people without expertise. They all started staunchly on a position, but could not base their perception on actions, but on stereotypes. In comparison with them, the interviews conducted with politicians, economic and security experts as well as journalists have provided a clear but fractured perception on Russia. Despite this, the research shows that most of politicians and experts in Kosovo looked at the Russian foreign policy in a less hostile manner than had been foreseen. Focusing mainly on the perception of Russian foreign policy among the Kosovo experts in different fields, the paper did not seek to provide any quantitative analysis on the perception of the Russian foreign policy in Kosovo. Quantitative results are published annually by one of the leading Kosovo think tanks

(Kosovar Centre for Security Studies 2016, 20).<sup>5</sup>

The interviews conducted for this research were mainly directed to collect as many perceptions as possible towards Russian foreign policy toward Kosovo. At the same time, the discussions aimed to depict what and how the perceptions of Russia could improve. The findings regarding the last point offer the possibility for more research and debate. The reasoning resides in the widespread belief that Russian foreign policy is unpredictable, clashing with the West and might complicate Kosovo's future even more.

One of the opinions strengthened by the interviews conducted in this research is that Russia is more of a spirit in the Balkans. Understanding how Russia acts and measuring the degree of influence Moscow has in the area proves a constant dilemma, but it seems that perceptions overestimate actual Russian influence. Much of its presence in the area is rather emotional, people feeling connected with Russia through ethnic roots, religion or struggle against the international order.<sup>6</sup> This picture was retrieved mainly from North Kosovo, but also from other parts of Kosovo. When looking from Prishtina, the perception of Russia is generally one of a strong country that could be frightening because of the help it could provide to Serbia.<sup>7</sup>

This research did not aim to depict the complicated relation between Russia and Serbia, but the perception of the people in Kosovo about it. Understanding how Moscow's decisions are decoded in Kosovo should be a key component of leaders in Prishtina and Mitrovica. For any analyst inside and outside Kosovo, it is clear that Russia has no major economic interest in this territory. Despite this, Russia attributes much attention to this small actor with a nominal GDP of a little over \$8 billion. If Kosovars could not see the importance that their future played for the Russian decision making, neither did the Western leaders. For Moscow, Kosovo struck at the very essence of the international law and Russia's main source to counter the West: the Helsinki principles regarding the inviolability of borders (Antonenko 1999, 132). Given the conservative approach of the Russian decision makers to international law, the reaction was imminent (Ker-Lindsay 2011, 184). The research has shown that for most of the people in Kosovo, Russian foreign policy failed to evade the image of a regional "spoiler." The security environment has not changed significantly and most of the people in Kosovo look at Russia with concerns that it might reignite tensions between the different communities. A decade and a half after the war, the main fear in North Kosovo is still interethnic confrontation (Jović and Nešović 2015, 30). Despite this, the perceptions retrieved from North Kosovo highlight the hope that Russia will be more present in international affairs and will play a constructive role in Kosovo's future.

## **Perceptions of Russia during the split**

In 1999, many Western officials were still convinced that negotiating with Russia meant negotiating somehow with the Soviet Union. By overestimating Russian capabilities, the West increased the chances Moscow had to block the proposals it did not favor (Levitin 2000, 131). The implication for the former autonomous Yugoslav province of Kosovo were significant and the Albanian majority felt unease with the strength Russia still held in the international community. The increasing concerns were fueled by the dissolution of the foreign policy imagined by the first Foreign Affairs minister of Russia, Andrey Kozyrev. Born in Brussels, Kozyrev had a rath-

er 'romantic' view of Europe and his plan was to include Russia into the realm of predictable countries, working hand in hand with the West. Later on, Foreign minister Yevgeny Primakov's approach had a more resilient component and accepted the common work with the West only to ensure Russia's place at the table and a certain degree of control over the international decision-making (Lynch 1999, 58).

Too many hopes had been placed on the Founding Act between Russia and NATO signed in May 1997, which was supposed to formalize the frames of the cooperation between the two main security vectors in Europe. What Russia aimed was to limit the transformation of the system through the West's will. In Kosovo, Moscow was not interested in fueling a conflict between the Albanian and Serbian communities. The actions of the central government in Belgrade terrified the people in Kosovo and outraged Russia. The Russian Prime minister Viktor Chernomyrdin showed no refrain from accusing Serbian President Slobodan Milošević. (Lynch 1999, 73-75). Russia had no interest to support the ethnic policy as the bloodshed in 1999 showed that the majority of the population in Kosovo could easily be lured towards radicalism (Hedges 1999, 26).

Against the fierce Serbian policy, most people in Kosovo hoped for a US-Russia agreement on Kosovo in 1999.<sup>8</sup> Such an agreement was torpedoed by the NATO bombing of Yugoslavia, which started on 24 March 1999. Russia accused the US of orchestrating the first NATO military intervention without UN authorization. Despite Russian opposition, the Kosovars felt that only the military intervention of NATO could have stopped the deteriorating human rights situation in the former Yugoslav autonomous region. All in all, with the war in Kosovo the world had witnessed a picture of desolation; ethnic murders and campaigns to cast out people from their homes carefully carried out.

The UN Security Council Resolution 1244 adopted on 10 June 1999 offered Russia the opportunity to control the situation. The Albanians felt that that Russia became more and more interested in maintaining the resolution intact as Moscow lost influence on the ground.<sup>9</sup> In 1999, Kosovo Serbs hoped for bigger support from Russia. The prospect of an Albanian military resurgence terrified the Serbian community. The streets in Mitrovica and other settlements in the North were animated by the idea that the Russian troops would watch for their safety, but their depression grew as they realized that Moscow could project little power outside its borders.<sup>10</sup>

Trying to overcome the loss of prestige, the Russian decision makers rushed to deploy forces at Prishtina airport ahead of the NATO troops on 12 June 1999. The step represented a clear sign that Russia decided to act outside the humanitarian intervention framework (Antonenko 2007, 9) and proved that Moscow could not allow any settlement in Kosovo without its consent. Uncertainty grew exponentially and most of the people were afraid that the escalation of violence was imminent. Convinced that Moscow could easily fuel the tension, Albanians prepared for the worst, hoping to increase the sympathy of the West. Since the beginning, the Russian troops were received with hostility by the locals.<sup>11</sup>

As the West enhanced its presence in Kosovo, the majority of the population increased its confidence in a separate course from Serbia and overcame the fear of Russian over-reaction. The growing number of the NATO forces transformed the perception of the Russian troops from fear to nuisance. The capabilities of the Russian forces depicted Russia as rather weak and without means to oppose the West in transforming the Balkans.<sup>12</sup> Therefore, if NATO maintained its

commitment to Kosovo, any significant Russian plan seemed considerably restricted. Therefore, there were no significant perception fluctuations among Kosovars regarding Russia during the KFOR, but a concern persisted regarding the possibility to reinforce Serbia through Russian help. Such a scenario would have ended only with a 'Serbianisation' process in the Balkans.<sup>13</sup>

When KFOR was established, the Serbian community was interested in receiving more protection from the Russian soldiers. The international military structure was regarded positively because the Russian component provided enough of a guarantee for the Serbian community. North Kosovo hoped that Russia would play a more visible role in the peacekeeping mission. Many rumors circulated on the streets that the Russian presence in Kosovo would become stronger,<sup>14</sup> but the people lacked the knowledge of the capabilities that Moscow sent to Kosovo.<sup>15</sup> These hopes transformed into bitter frustration when Russia withdrew from KFOR in 2003.<sup>16</sup>

The 3,000 Russian peacekeepers failed not only to improve feelings among the locals, but also not represent leverage against the NATO activity in the region. Moreover, the Russian forces deployed in Kosovo stretched the already fragile federal budget (Antonenko 1999, 138). Nevertheless, the troops represented a symbol that Russia was willing to support the Serbian population. The Russian troops were genuinely viewed as friends and the Serbian community relied on these soldiers to take their side. Confident in the international support and distrusting the Russian mission, some Albanian officials even tried to denigrate the image of the Russian soldiers.<sup>17</sup>

Even if the Russian presence was not well received in large areas of Kosovo, the attention of most of the people went to the US and NATO troops because they restricted any Russian independent activity.<sup>18</sup> But for the US, the Balkans ceased to be a main priority after 28 June 2001, when the former Yugoslav president Slobodan Milošević was sent to court for his actions in the Yugoslav wars. The low level of attention received from Washington did not mean that the problems in the Balkans had been solved, but that the US establishment believed that the region had been stabilized temporarily. A solution was not in sight, so re-freezing the Balkans was the best option at that time (Joseph 2005, 111).

Russia entered and withdrew from Kosovo at times of great changes and NATO intervention proved that Russia had been downgraded in the international system. Not only had NATO bombarded a country without a UN resolution, but it did so outside the framework of consultation with Russia that had been established in 1997. Moscow feared that the US aimed to forge a NATO-centered Europe (Baranovsky 2000, 455). In the decade before Vladimir Putin became president, Russia had to accept a general weakness, which limited its capacity for action. But the first Putin administration had already started with an assertive momentum and one of the driving forces was the strengthening of the link between Russia and Serbia.

The Russian support for Serbia after 2000 was still concerned with the political thinking in Prishtina. If a military intervention was excluded because of the US troops on the ground, the Russian endorsement could have easily contributed to the resurrection of new nationalist movements in Serbia.<sup>19</sup> Russia insisted that the pressure applied by the authorities in Prishtina pushed to the corner the national feelings of the Serbian society, which could always return to a leadership that does not necessarily oppose ethnic cleansing (Kupchan 2005, 17). Nevertheless, Russia insisted that Prishtina generated a division between the true values of the Serbian people and the will of several politicians to integrate into the EU (Filimonova 2013).



When Russia retreated in 2003 from KFOR, the Serbian community's fears intensified. As the frustration mounted, they also became more realistic in the sense that Russia would find it hard to return if it left the ground. The Serbian community maintained the hope that help will still arrive diplomatically,<sup>20</sup> but they became more aware that Russia could not stand against the West's assumed decision to move Kosovo closer to independence. Such hopes from the North could not be fulfilled because the new leaders in Prishtina seemed to be guided by three pillars after 1999: Americans in, Russians down and Serbs out.

## **Preventing the inevitable: Russia and Kosovo's independence**

After 2003, the people in all parts of Kosovo realized that Russia had lost its grip on Kosovo and could not attempt another maneuver to protect Serbian interests outside the diplomatic opposition.<sup>21</sup> The apparent Russian weakening position increased the speed of the status discussions. Most of the Kosovars found Resolution 1244 unsatisfying because it did not provide for independence and they wanted to overcome Russia's reading of the document, which insisted on the sovereignty of Serbia (UNSCR 1244).

Given the territory and the reduced economic potential, analysts and politicians in Kosovo hoped that the West and Russia "were not going to clash for a small country."<sup>22</sup> This expectation was not shared by Moscow, where the policy was changing. Stronger support for Serbia became the norm in order to ensure the survival of the international system on the same basis, giving Russia a voice among the leading world powers. Russia aimed to follow closely all the crises around the world and take part in resolving them. Russia favored the maintenance of international law because most of it had been created during the Soviet period, when Moscow was one of the two world centers. That might be also explain why Russia insisted on the "constitutionalist" approach and preserving Serbia's integrity.<sup>23</sup>

The fact that Russia and Serbia are connected has been of constant historiographical interest and a growing number of researches devote attention to this relation in recent years (Szpala 2014). Nevertheless, it is unclear how to define this connection outside the Slavic heritage and the Orthodox bond. Especially in the Kosovo case, the Serbian Orthodox Church proved very interested in securing Russian help (*Kurir* 2013).<sup>24</sup> The two dimensions generated a sort of a 'political tango'. The link between the two Slavic and Orthodox countries had been numerous times invoked, but it was difficult to assess if Russia would lead the couple after 2000.

Generally, Russia is perceived as a regional and lately a global actor that provided support to Serbia in Kosovo and Belgrade has learned to benefit from this.<sup>25</sup> Still, it should be noted that the officials in Moscow declared that Belgrade did not receive a blank cheque to act on Kosovo (Abramowitz 2008). In the tango between Serbia and Russia, North Kosovo seemed convinced that Serbia set the pace and almost each time Russia followed.<sup>26</sup> That did not happen because Russia assumed the role of the follower or because it feared to lose Serbia from its orbit, but because the dance, at least for the past years, had been the one Moscow liked. When Serbia lost the tempo, the people in the North Kosovo perceive Russia as the partner who takes temporarily the lead. Some foreign authors (Antonenko 2007) and few Kosovars<sup>27</sup> believe that that Serbia was a victim in the Russian Balkan geopolitical grab.

For North Kosovo, it seemed impossible for Belgrade to accept the idea that the state borders could be changed when the Serbian attempts to change the borders in Croatia and Bosnia failed. Most Serbs insisted that the Albanians had to respect the central authorities in Belgrade because Serbia had the right to protect its territory, despite the self-determination movement in Kosovo (Daskalovski 2003, 22). Increasingly after 2004, Serbia built the image that its messages had the Russian backing. For this reason, the Albanian majority tended to perceive Serbia and Russia as a unified front and expected more diplomatic pressure.<sup>28</sup> Moscow insisted that the United Nations Interim Administration Mission in Kosovo (UNMIK) should play a bigger role in maintaining the peace in Kosovo. With the policy it followed, UNMIK was perceived as an obstacle against the independence by the Kosovars<sup>29</sup> as its growing power was received as an intention to transform Kosovo into a new Bosnia.<sup>30</sup> Contrarily, the Russian foreign policy managed to depict UNMIK as the rightful instrument to ensure Kosovo's security.

But if Kosovo faded away from the international community's attention after the war in 1999, the riots in 2004 made it clear that a small territory might ignite the Balkans (Lynch 2007). The frustration felt by the Kosovars reached a threatening level and the demonstrations proved that the unclear status was not a situation to be tolerated indefinitely. Actually, the riots depicted not the lack of status, but the signal that the time had come to make a step forward (Ker-Lindsay 2013, 845). The Kosovars had no will to return under the authority of Belgrade, no matter how loose would that have been. For the community in the North Kosovo, the riots in 2004 increased the fear that the Albanian majority might even try to profit from the violent manifestations and start reignite the ethnic conflict so as to push the Serbian community into Serbia. With no Russian forces in KFOR, the Serbs in North Kosovo did not expect Moscow to swiftly take action, but relied on Serbia to provide much-needed help if the tension escalated.<sup>31</sup>

There was no clear idea in Kosovo how to deal with the Russian opposition after 2004, especially when Russia insisted on avoiding the dialogue on changing UNSCR 1244. With a deadlock ahead, the Kosovars hoped that the West would push for the independence.<sup>32</sup> It was difficult to reach such an outcome because Kosovo had been a province in Yugoslavia and did not enjoy the clear-cut right to secede once the federation dissolved (Ker-Lindsay 2013, 843). But the road to the independence was actually paved by the Serbian position.<sup>33</sup>

Russia was not satisfied with the argument that Kosovo's independence was required because of the grave human rights violations. Highly promoted by the European Parliament, the argument was valid, but a closer look at other areas on the planet showed how many ethnic conflicts required similar response. Which was the reason that allowed Kosovars to gain independence from Belgrade after a swift war, when Kurds faced a permanent cleansing policy lead from Baghdad? Moreover, for the Russian decision-makers, there were too many areas in the Balkans, not only outside of them, that could have entered the short-track to the independence process. Nevertheless, Moscow insisted on the argument that independence was not essential for the safety of the people in Kosovo, as they were not under the threat of an intervention from Belgrade anymore. If they were safe, why was it required to gain independence so fast? (Ker-Lindsay 2013, 848).

These arguments proved to dissociate more and more the Albanian and Serbian communities in Kosovo. Such warnings about international law infringement or precedent setting had no consistence in Prishtina, because Moscow's ultimate reasoning seemed to be the protection of

Serbs and the return to grand politics.<sup>34</sup> Persisting in asking for standards' implementation,<sup>35</sup> Russia was regarded as an unfair actor that aimed only to gain more time. Implementing the standards was considered as a continuous process in Prishtina and waiting for their fulfillment would have only endangered the situation within Kosovo.<sup>36</sup> Moreover, the Kosovars considered that the standards had been set too high for them to fulfill.<sup>37</sup>

How could the Kosovo question be solved in accordance with international law and avoid an emotionless solution? What some EU leaders hoped for was that, despite the initial separation between the Albanian and Serbian community, the funds from Brussels would help bridge the ethnic divides (Kushniruk 2008). Institutions in Prishtina felt secure under the European approach,<sup>38</sup> but Russia insisted that the Kosovo decision makers failed to deliver on the standards and could not accept that Kosovo was an exception in international law.<sup>39</sup>

Questionably, Russia agreed to provide the mandate to Marti Ahtisaari, the Special Envoy for the Kosovo status process, given that the Finnish diplomat identified independence as the natural outcome in the status process (Ker-Lindsay 2011, 183). The Serbian community in the North understood the direction, but was convinced that Serbia would do all the effort to block an eventual independence decision. Belgrade proved to be very staunch in this regard and Russia was perceived in North Kosovo as a committed partner, who followed closely the international law.<sup>40</sup>

Decision makers in Prishtina welcomed the resolute solution of supervised independence found by Marti Ahtisaari. There were some hopes that the diplomat's proposal might win Russia's backing.<sup>41</sup> The process was not easy, but Ahtisaari wrote in his letter to the UN Secretary General that negotiations between Belgrade and Prishtina would most probably prove fruitless and would require too much effort. This approach raised many concerns in Moscow and the Russian Foreign minister, Sergey Lavrov, even requested a new UN mediator, one who would be more inclined to reach an agreement between the two sides (Lynch 2007).

Russia was perceived as a "spoiler" of the international community<sup>42</sup> when it announced that it would oppose the Ahtisaari plan in 2007. It raised the morale in North Kosovo and encouraged Belgrade. During an interview at the beginning of January 2007, the Serbian Prime minister Vojislav Koštunica declared: "The matter is so pure and principled that such a big country, as Russia is, that advocates one stand, will not give up." President Boris Tadić added nuance to the discussion when he insisted that "nobody in Serbia has the right to hang on Russia's neck" (UNMIK 2007a). With this approach, it seemed that Moscow aimed "to see the Balkanisation of Europe rather than the Europeanisation of the Balkans" (MacShane 2007). As the majority of the population in North Kosovo opposed the independence process, they were afraid that the government in Prishtina would trigger a violent campaign to make them obey.<sup>43</sup>

To which extent did the Russian government make it clear to the others that it would veto any independence proposal? In 2007, Putin was obviously displeased at the 43<sup>rd</sup> International Conference on Security in Munich when he asked the West "not to pose as Lord God" when it came to Kosovo (Interfax 2007). In May the same year, the Kosovo issue had been at the forefront of a meeting between Russia and the EU. Lavrov declared that only the Serbian people had the right to decide over their future and if some people in the US, EU and Russia believed that they could decide the fate of smaller nations, then they were animated by colonial instincts (BBC news 2007).

The Russian insistence in 2007 to avoid any external-driven process in Kosovo directly opposed its previous stance which strove to create a 'Group of Powers' meant to decide the present and future of the entire European continent. As the Group of Powers failed, Russia tried to delay and halt any step forward towards Kosovo independence. It was said that during a G8 meeting Russia compared the situation in Kosovo with Palestine, pointing out that the West made no effort to grant independence to the later in four decades (Dempsey 2007). The Russians even asked how it could be possible for the US to push for Kosovo's independence when the Serbian population in Bosnia had no chance to claim such right (Kumar 2008, 24).

At the beginning of December 2007, Prishtina had no expectations regarding the Russian stance.<sup>44</sup> Focusing on the tensed atmosphere in Europe because of the Kosovo issue, Lavrov warned that the continent would find itself on a "slippery slope" if Kosovo's independence would be recognized in the West (Morris; Buckley; Blitz 2007). The US, Russia and the EU<sup>45</sup> could not agree on the basic question of sovereignty. The four month long mediation process failed to avoid a unilateral declaration of independence. Despite Russia's threats to block the UNSC resolution, Kosovo Prime minister Agim Çeku had highlighted earlier in 2007 that independence was expected by the end of May. Despite Russian opposition, Kosovar decision makers believed that "enough countries, particularly the United States, had invested time, money and political energy in solving Kosovo issue" and that was enough to ensure the success (UNMIK 2007b).

With no illusions on the Russian policy, Kosovo hoped that the West was strong enough to balance against the Russian opposition. The Kosovar decision makers seemed convinced that they were too small to influence the Russian position and expected the West to manage the recognition process.<sup>46</sup> The situation was not comfortable for the leaders in Prishtina, but was not dark at all. Apparently lacking the power to change the Russian position, they continued to place the responsibility for action on the West's shoulders.<sup>47</sup> Therefore, they were reluctant to act and expected the US and the EU to indicate the steps to take.

By 2008, it was clear that Russia was on a comeback. The West had challenged Russia and made Kosovo's unilateral declaration of independence possible (Friedman 2008). Moreover, Russia aimed to intensify the resistance in Belgrade, despite Serbia's negotiations with the EU. The new Russian standards were visible on TV as well. On 22 February, the Serbian embassy in Moscow requested further explanations for the words addressed by the Russian TV presented Constantin Semin. While deploring the situation in Kosovo and accusing the Serbs that they permitted such an evolution, Semin even added that the pro-European Zoran Đinđić received "a deserved bullet" in 2003 (*BBCRussian* 2008). Most of the people in North Kosovo had been amazed by the steady Russian position and they expected more support from Serbia.<sup>48</sup> The Russian position convinced some people in North Kosovo that Prishtina could not act outside the international framework. The Serbs believed that a unilateral declaration of independence would determine the leadership in Prishtina to use force against them.<sup>49</sup> Having such fears, the Russian position seemed the foundation for a Slavic stronghold. When the unilateral declaration of independence was made public, the Kosovars did not have any second thought or fear of a Russian hostile move. Most of the people who gathered in February 2008 to celebrate the independence proved that they looked at Russia with indifference.<sup>50</sup> Genuinely, the declaration of independence brought many hopes in Kosovo that the future would provide the possibility to realize grand projects.<sup>51</sup>

## After independence, little room for maneuvering

Since 2008, the Kosovars have kept their hope that the West would solve their problems, no matter how strong would be the Russian opposition.<sup>52</sup> The advisory opinion assumed by the International Court of Justice in 2010 regarding the Kosovo unilateral declaration of independence (International Court of Justice 2010) shed little light on the problem. Most politicians in the Kosovo Assembly could not understand the Russian opposition, as it seemed “unacceptable for anyone.”<sup>53</sup> If the declaration did not break international law, Kosovo hoped that the result would provide more incentives for establishing a foreseeable future (Lobjakas 2010). Contrary, Russia continued its policy and in an interview with *Kommersant* daily, Russia’s Permanent Representative to the UN, Vitaly Churkin, added that the unilateral declaration of independence was not at all a step taken to prevent spilling more blood in Kosovo when there was no threat coming from Belgrade whatsoever and the Serbian authorities seemed willing to ease the situation (*MFA Russia* 2016).<sup>54</sup>

Unfortunately, most Albanians did not follow the UN discussions and arguments. The topics seemed too complicated and difficult to resolve. Even if authorities in Prishtina declared that they were willing to overcome the hostility of the period prior to independence, it seemed to them that the Russian foreign policy sought no cooperation, but control.<sup>55</sup> On the other hand, convinced that Russia would torpedo the votes on Kosovo, the decision makers in Prishtina seemed more interested in gaining small scale ‘recognition contests,’ such as the acceptance into sport associations or cultural organizations.<sup>56</sup> The accession into the UN might prove a labyrinth for Kosovo and could drag much of Prishtina’s energy. Therefore, building the trust of the non-recognizer states within the EU became the main priority.<sup>57</sup>

Improvement in relations with Russia is almost impossible without the American green light.<sup>58</sup> Even if Prishtina relies on the West to set not only the course, as well as the individual steps, a channel of communication with Russia should be maintained, according to some opinions.<sup>59</sup> But doing it proves far harder than saying it. There seems to be an agreement among all Kosovars that the Russian policy will not change in the foreseeable future, with a Kremlin willing to fight the West by using the Kosovo precedent. The annexation of Crimea worsened Kosovo’s situation. Without the conflict in Ukraine and the referendum held in 2014 in Crimea, the recognition process of Kosovo might have developed significantly.<sup>60</sup> Emotionally, the annexation of Crimea was received positively in North Kosovo. Most of the people were glad to see that Russia was capable of defying the West.<sup>61</sup>

After 2008, the institutions in Prishtina did little to improve Moscow’s approach.<sup>62</sup> One of the obstacles in this regard is the limited resources Kosovo had.<sup>63</sup> Nevertheless, the Kosovars expected more activity from the Ministry of Foreign Affairs (MFA) in Prishtina.<sup>64</sup> Despite its role, the MFA failed to record success in changing the Russian stance. Moreover, Prishtina did not manage to convince all the EU countries on its progress. There is a growing concern that the MFA lost the chance to improve Kosovo’s situation following the ICJ opinion. Most of the recognition and public diplomacy has been conducted in the last years through other means: businessmen, civil society or sportsmen.<sup>65</sup>



Behgjet Pacolli was one of the few who believed that a change could have taken place and the perception of Russia could have been changed in Kosovo. One of the signatories of the unilateral declaration of independence in 2008, Pacolli had been a good friend of the Russian president Boris Yeltsin. When Pacolli took the Presidential office in 2011, people found out more about his business activity in the former Soviet Union.<sup>66</sup> The perceptions of his activities are varied, with some supporting the idea of improving relations with Russia, and others insisting that he should have left the office for betraying the West. If some believed that Pacolli was not well received as a President of Kosovo because of his internal political activity, others highlighted his connection with the former Soviet space as a danger for Kosovo's statehood.<sup>67</sup>

The situation in Kosovo for the past few years has remained as difficult as the Russians wanted. During the Security Council meeting on 26 August 2016, Churkin highlighted that the dialogue over Kosovo could be characterized as frozen. Following the core Russian argument after 2003, Churkin highlighted that only a strengthened UNMIK presence in Kosovo would contribute to the improvement on the ground and would halt the plans of creating a "Greater Albania" (B92 2016).

The Russian stance was supported by the 2016 report presented by Zahir Tanin, Special Representative of the Secretary-General and Head of the UNMIK. Tanin reflected that the institution he coordinated "no longer administered the territory" but its role was still of interest "for providing support and legitimacy in its role as a bridge between the Security Council and the people of Kosovo and the wider region.. Despite the fact that the Assembly in Prishtina elected a President of Kosovo, Hashim Thaçi, the political situation was still tense and divisive (UN Meeting 2016). For Kosovars, UNMIK has become tantamount to Russian influence. The Kosovar Foreign minister, Enver Hoxhaj, highlighted that Moscow gained a decisive role in the entire process: "I view UNMIK's role as an international mission that is an extension of Russia's influence in Kosovo. I don't mean the people working in UNMIK, but rather UNMIK as an instrument of Russia's policy vis-à-vis the region" (UNMIK 2016).

Reinforcing the UN presence in Kosovo was doubled by the vigorous support for Serbian nationalist feelings. One of the latest evidence of this was the July 2015 Russian veto over the UNSC Resolution that classified Srebrenica events in 1995 as a genocide (Ademovic 2016). In 2014, Putin had visited Belgrade to celebrate the liberation of the Serbian capital in the World War II. Just several months after the annexation of Crimea, Putin declared that the Russian stance on Kosovo is still principle-based. But apart from the call to respect "international law and justice," Putin highlighted that Russia will further support Serbia on this issue. He concluded that "Russia does not trade friendships" (*Radio Svoboda* 2014). In North Kosovo, the media insists on such symbolic events that highlight the link between Russians and Serbs.<sup>68</sup> In September 2015, the Russian ambassador to Belgrade, Aleksandr Chepurin, welcomed a group of students traveling to Moscow for a cultural visit (*Kosovo Sever portal* 2015). Nevertheless, what matters most in North Kosovo is the dependency to Belgrade, a relation that stifles the moderates who aimed to find a way of cooperation through the international community (Sahin 2009, 247). This approach has significantly encouraged the radical view in North Kosovo during the last years.

## Conclusions

In the near future, there are limited opportunities to change the perception of Russian foreign policy among elites in Kosovo. The improvement could be possible only if the West sent clear signals to Prishtina. But for the Albanian population, Russia is associated with communism, the memories of economic hardship and ideological pressure being still alive in people's perceptions.<sup>69</sup> Surprisingly, some Albanians in Kosovo might actually feel attracted by the Russian stance in international relations. The nationalists in Albania and Kosovo find the Russian foreign policy challenging but a true vector to reshape the borders in the Balkans. According to this perspective, if Moscow aims to redraw the map of Europe, then the dream of Greater Albania might be accomplished at last.<sup>70</sup>

The research highlighted that statehood in Kosovo needs a lot more effort and support to change the perspective of the Russian decision makers. Still, there is a belief that Russia might not change its approach, regardless of any efforts undertaken by Kosovo. A failure makes the situation harder at a time when imagining a future for all of Kosovo is a difficult task. With or without Russia's influence, the situation in Kosovo is very difficult for anyone willing to see it, especially in the North. In recent years, several dark and mild scenarios have been proposed (Joseph and Hoogenboom 2014, 37).<sup>71</sup> They show that most of the population in North Kosovo is too focused on the dire economic situation and if the Brussels agreements fail, the community in the North would become strangled.<sup>72</sup> The perception of Russia has been strengthened during the last three years and Moscow has proven more reliable than Belgrade for some of the Serbian members of the community.

The relations between and perceptions of Kosovo and Russia have not improved so far because there were details that undermined the process, and because of the their approach towards each other. Russia insisted that the declaration of independence was not a bottom-up process, but a top-down effort. (Guzikova and Nesterov 2015, 178-180). It is still debatable if Russia had mainly benign or malign interests when it confronted the argument of Kosovo being a unique case in international law. Still, it seems that Russia was more inclined to maintain its borders, rather than venture for enlarging them at that time (Ker-Lindsay 2013, 853). Geopolitics has been always present in the Balkans and the wider Black Sea area, but the malign motives Russia had before 2007 do not seem to be supported by many arguments.

People in Kosovo display a genuine indifference towards Russia as they believe it is a subject beyond their reach. But every difficulty triggered in the dialogue with Serbia reminds them that Russia is the shield of the Pan-Slavic spirit. The quantitative data regarding the perception of Russia show that the figures have been stable in the last years (Emini 2015, 7-10).<sup>73</sup> Nevertheless, each time Russia becomes a subject, the people tend to show even more the adhesion for the West, being convinced that only the US and the EU can push a decision against Russia's will.<sup>74</sup>

The people are focused on their reality and on what they can grasp while an array of issues is still unresolved by the government in Prishtina. Among all, the fight against corruption is being on the top of the list.<sup>75</sup> If people have many different approaches towards domestic problems, having a lot of superficial discussions, there is rather a consensus over the foreign policy.<sup>76</sup> Even



if there is a growing perception that the EU has not played fair with Kosovo in spite of the efforts made and the commitment displayed in Prishtina,<sup>77</sup> the West seems the lighthouse, while Russia looks like a distant storm. If North Kosovo seems lured at times by the Russian myth,<sup>78</sup> all Kosovo think that Russia is unreachable.<sup>79</sup>

The general political negative perception of Russia is likely to continue. The children in the Albanian majority are raised with the image of the Serbian and Russian enemy.<sup>80</sup> Such an approach would make the improvement of perception in most of Kosovo very difficult. In North Kosovo the image is opposite and Russia enjoys the role of the protector or the Serbian community. With such differences, the government in Prishtina will wait for the US, German and British representatives to negotiate directly with their Russian and Chinese counterparts and record some progress in the Kosovo recognition process.<sup>81</sup>

To which degree are Kosovars interested in developing relations with Russia? In the Serbian community, most of the people would like a more intimate connection with Russia not only because of religious, cultural or ethnic arguments, but also in terms of the political model. Russia seems stronger each year and its leadership more aware of the winning path. Instead, in the Albanian community, most of the people crossed a very distinct line between cultural and political dimensions.<sup>82</sup> If Dostoevsky, Esenin or Tchaikovsky depict a Russia that is much appreciated, the tsarist, Soviet and current political framework prove to be a dangerous lure.

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## List of interviews

Civil activist based in Pristina, 13 October 2016, Bucharest.  
Politician based in Pristina, 24 October 2016, Bucharest.  
Civil activist, 26 October 2016, Prishtina.  
Professor, 27 October 2016, Prishtina.  
Security expert, 27 October 2016, Prishtina.  
Politician, 28 October 2016, Prishtina.  
Politician, 28 October 2016, Prishtina.  
Civil activist, 28 October 2016, Prishtina.  
Security expert, 28 October 2016, Prishtina.  
Security expert, 2 November, Prishtina.  
Security expert, 4 November, Prishtina.  
International law expert, 14 November, Belgrade.  
Security expert, 15 November, Belgrade.  
Former civil activist based in Mitrovica, 15 November, Belgrade.  
Former civil activist based in Mitrovica, 24 November, Bucharest.  
Security expert based in Prishtina, 24 November, Bucharest.  
Civil activist based in Mitrovica, 28 November, Bucharest.

### (Endnotes)

- 1 Author's interview with security expert, 4 November 2016, Prishtina.
- 2 The arguments have been developed extensively after the unilateral declaration of independence . See J. Ker-Lindsay 2009: 141–156; Selver Sahin argues that the uniqueness was a rather an image that the external actors rationally constructed to depict the situation in Kosovo; See Sahin 2009: 235-255.
- 3 Guzikova, M.O.; and Nesterov, A.G. 2015. Kosovo na puti k suverenitety: K istorii voprosa Vneshnyaya politika I mezhdunarodnye ornosheniya Evropeyskih stran v noveyshee vremya. *Vestnik Kemerovskogo Gosudarstvennogo Universiteta*, 2:3, 178-179; The two main principles invoked were the sovereignty and the people's right to self-determination. In any case, Russian scholars showed that the "Kosovo case is destruction of the universal character of sovereignty as a principle of international law, which will inevitably lead to growing chaos in the international relations".
- 4 There is no clear "Western" stance towards Kosovo, despite the Russian approach. The position of some of the NATO members was considerably different from the US perspective. Scholars showed that NATO had been too politicized in 1999. There was much reluctance over the scope of the action as well as about the general outcome of the intervention. Many European members proved they did not trust the Albanian Kosovars. Moreover, some of the members were even asking if NATO was not fighting for the wrong side in Kosovo (Norris 2005: 19); On the other hand, Moscow did everything during the intervention to attenuate the Europeans' responsibility for the war, as if they were not part of NATO. (Baranovsky 2000: 455).
- 5 The methodology of the KCSS 2016 report highlights that: "The national sample from which the research was drawn featured 1,070 households, following a representative sample of the population above 18 years old in Kosovo. The ethnic breakdown of the interviewed respondents was: 88.4 percent K-Albanian, 7.7 percent K-Serbian, and 3.9 percent others (of which, 1.4 percent Turks, 0.6 percent Bosnian, 1.0 percent RAE and the rest include Gorans, Croats, and Montenegrins".
- 6 Author's interview with civil activist based in Mitrovica, 28 November 2016, Bucharest.
- 7 Author's interview with civil activist based in Prishtina, 26 October 2016, Prishtina.

- 8 Author's interview with civil activist based in Mitrovica, 24 November 2016, Bucharest; author's interview with security expert based in Prishtina, 28 October 2016, Prishtina.
- 9 Author's interview with security expert based in Prishtina, 4 November 2016, Prishtina.
- 10 Author's interview with civil activist based in Mitrovica, 28 November 2016, Bucharest.
- 11 Author's interview with security expert based in Prishtina, 24 November 2016, Bucharest; In Rahovec, the locals placed obstacles on the road to block the crossing for the Russian soldiers.
- 12 Author's interview with civil activist based in Prishtina, 13 October 2016, Bucharest.
- 13 Author's interview with civil activist based in Prishtina, 26 October 2016, Prishtina.
- 14 Author's interview with civil activist based in Mitrovica, 28 November 2016, Bucharest.
- 15 Author's interview with civil activist based in Mitrovica, 24 November 2016, Bucharest.
- 16 The reason invoked by the Russian leaders were the expenditure required to maintain the troops and the fact that Russia did not want to be considered an accomplice for the developments in Kosovo. Most of the Russian officials insisted that the interest for the Balkans would be maintained (*B92* 2003).
- 17 Author's interview with professor based in Prishtina, 27 October 2016, Prishtina; In spring 2000, a fist fighting between the KLA army leader Ramush Haradinaj's bodyguards and the Russian soldiers at a KFOR checkpoint had created a lasting impression on the people in Kosovo.
- 18 Author's interview with security expert based in Prishtina, 28 October 2016, Prishtina.
- 19 Author's interview with politician based in Prishtina, 24 October 2016, Bucharest.
- 20 Author's interview with civil activist based in Mitrovica, 28 November 2016, Bucharest.
- 21 Author's interview with security expert based in Prishtina, 4 November 2016, Prishtina.
- 22 Author's interview with civil activist based in Prishtina, 28 November 2016, Bucharest.
- 23 Author's interview with professor based in Prishtina, 27 October 2016, Prishtina.
- 24 When meeting the Russian President in 2013, the Serbian Patriarch Iriney explained that the Serbian people have a guiding saying: "except for God, we believe only in Russia".
- 25 Author's interview with professor based in Prishtina, 27 October 2016, Prishtina.
- 26 Author's interview with civil activist based in Mitrovica, 28 November 2016, Bucharest.
- 27 Author's interview with security expert based in Prishtina, 27 October 2016, Prishtina.
- 28 Author's interview with security expert based in Prishtina, 28 October 2016, Prishtina.
- 29 Author's interview with professor based in Prishtina, 27 October 2016, Prishtina.
- 30 Author's interview with civil activist based in Prishtina, 28 November 2016, Bucharest.
- 31 Author's interview with civil activist based in Mitrovica, 24 November 2016, Bucharest.

- 32 Author's interview with professor based in Prishtina, 27 October 2016, Prishtina.
- 33 Author's interview with security expert based in Prishtina, 4 November 2016, Prishtina; There is a belief that if Serbia would have recognized the mistreatment in Kosovo and would have asked for apology in the international community, then the integrity of Serbia might have been maintained.
- 34 Author's interview with security expert based in Prishtina, 24 November 2016, Bucharest.
- 35 The standards included: "(1) the existence of effective, representative and functioning democratic institutions; (2) enforcement of the rule of law; (3) freedom of movement; (4) sustainable returns of refugees and displaced persons, and respect for the rights of communities; (5) creation of a sound basis for a market economy; (6) fair enforcement of property rights; (7) normalized dialogue with Belgrade; and (8) transformation of the Kosovo Protection Corps (KPC) in line with its mandate."
- 36 Author's interview with civil activist based in Prishtina, 28 October 2016, Bucharest.
- 37 Author's interview with civil activist based in Prishtina, 26 October 2016, Prishtina.
- 38 Author's interview with politician based in Prishtina, 28 October 2016, Prishtina.
- 39 Author's interview with security expert based in Prishtina, 28 October 2016, Prishtina.
- 40 Author's interview with civil activist in based Mitrovica, 28 November 2016, Bucharest.
- 41 Author's interview with security expert based in Prishtina, 4 November 2016, Prishtina.
- 42 Author's interview with civil activist based in Prishtina, 26 October 2016, Prishtina.
- 43 Author's interview with civil activist based in Mitrovica, 28 November 2016, Bucharest.
- 44 Author's interview with politician based in Prishtina, 4 November 2016, Prishtina; Author's interview with civil activist based in Prishtina, 28 October 2016, Prishtina; The expression used during the interview was: "we saw it coming".
- 45 The EU had a policy that differed from the the ones of some of its members. Just as in the case of NATO military action in 1999, some states in the EU argued if Kosovo file was a good practice for the future.
- 46 Author's interview with security expert based in Prishtina, 24 November 2016, Bucharest.
- 47 Author's interview with civil activist based in Prishtina, 26 October 2016, Prishtina.
- 48 Author's interview with civil activist based in Mitrovica, 28 November 2016, Bucharest; Author's interview with civil activist based in Mitrovica, 15 November 2016, Belgrade; The belief was that if Russia would have recognized Kosovo in 2008, following a grand bargain with the US, Serbia would not have done so.
- 49 Author's interview with civil activist based in Mitrovica, 28 November 2016, Bucharest.
- 50 Author's interview with security expert based in Prishtina, 24 November 2016, Bucharest; If anywhere, Russia was present in a satirical video which depicted a farewell scene between Kosovo and Serbia. The video claimed that the moment came to say goodbye and Serbia could be left with Russian mafia.
- 51 Author's interview with civil activist based in Prishtina, 13 October 2016, Bucharest.
- 52 Author's interview with security expert based in Prishtina, 24 November 2016, Bucharest.



53 Author's interview with politician based in Prishtina, 24 October 2016, Bucharest.

54 Churkin continuously insisted on the fact that no other regulations were needed because the rightful document was in place. In 2010, Churkin highlighted that the UNSCR 1244 regulated the Kosovo issue and confirmed Serbian territorial integrity. According to the Russian ambassador, there was no reason to change the Resolution as long as the situation on the ground was still very tense and only the UN Security Council had the role of international law observer (Makarova 2010).

55 Author's interview with politician based in Prishtina, 24 October 2016, Bucharest.

56 Author's interview with security expert based in Prishtina, 28 October 2016, Prishtina.

57 Author's interview with security expert based in Prishtina, 4 November 2016, Prishtina.

58 Author's interview with security expert based in Prishtina, 4 November 2016, Prishtina.

59 Author's interview with security expert based in Prishtina, 28 October 2016, Prishtina. Author's interview with security expert based in Prishtina, 24 November 2016, Bucharest; Civil activist in Mitrovica, interview on 28 November 2016, Bucharest.

60 Author's interview with security expert based in Prishtina, 4 November 2016, Prishtina.

61 Author's interview with civil activist based in Mitrovica, 28 November 2016, Bucharest.

62 Author's interview with civil activist based in Mitrovica, 28 November 2016, Bucharest.

63 Author's interview with security expert based in Prishtina, 4 November 2016, Prishtina.

64 Author's interview with security expert based in Prishtina, 4 November 2016, Prishtina. The belief is that the MFA "failed so far in projecting the relations with Serbia".

65 Author's interview with civil activist based in Prishtina, 26 October 2016, Prishtina.

66 Author's interview with Professor based in Prishtina, 27 October 2016, Prishtina; Pacolli's company renovated the Kremlin and he is still well connected in other places of the former Soviet space, like Kazakhstan and Uzbekistan. Moreover, most of the people in Kosovo insist on his sympathy for Russia as his current wife was born in the USSR.

67 Author's interview with civil activist based in Prishtina, 28 October 2016, Prishtina.

68 Author's interview with security expert based in Mitrovica, 24 November 2016, Bucharest.

69 Author's interview with professor based in Prishtina, 27 October 2016, Prishtina; During the war in the '90s communism was remembered by the Albanian media while presenting the Russian volunteers fighting with the Serbian army.

70 Author's interview with security expert based in Prishtina, 24 November 2016, Prishtina.

71 The darkest scenario imagined by the report presented Russia as the key actor. The scenario was named "Relapse" and it is based on two assumptions: movement away from EU integration and stability decrease in the region. In such a scenario, Iber would become the frontline in a renewed ethnic conflict. If this frame seems less plausible, it should not be neglected. If the Russia follows these lines or not it is less important. What matters the most is to understand that ethnic conflict in Kosovo should be avoidable by all means. It will not only turn back the clock a couple of decades, but will also show the people that the West is incapable of solving the issue.

72 Author's interview with security expert based in Prishtina, 24 November 2016, Bucharest

73 In the 2015 and 2016 Kosovo Security Barometer reports, Russia was perceived by more than 80 percent of the respondents in Kosovo as a hostile or very hostile country. In 2015, 63.3 percent of the respondents consider Russian foreign policy towards Kosovo very hostile, while 22 percent consider it hostile. Russia enjoys the image of a friendly nation in the North Kosovo, where 56 percent of the respondents have declared they regard Russia a friendly country.

74 Author's interview with security expert based in Prishtina, 4 November 2016, Bucharest.

75 Author's interview with civil activist based in Prishtina, 26 October 2016, Prishtina.

76 Author's interview with civil activist based in Prishtina, 13 October 2016, Bucharest.

77 Author's interview with security expert based in Prishtina, 28 October 2016, Prishtina.

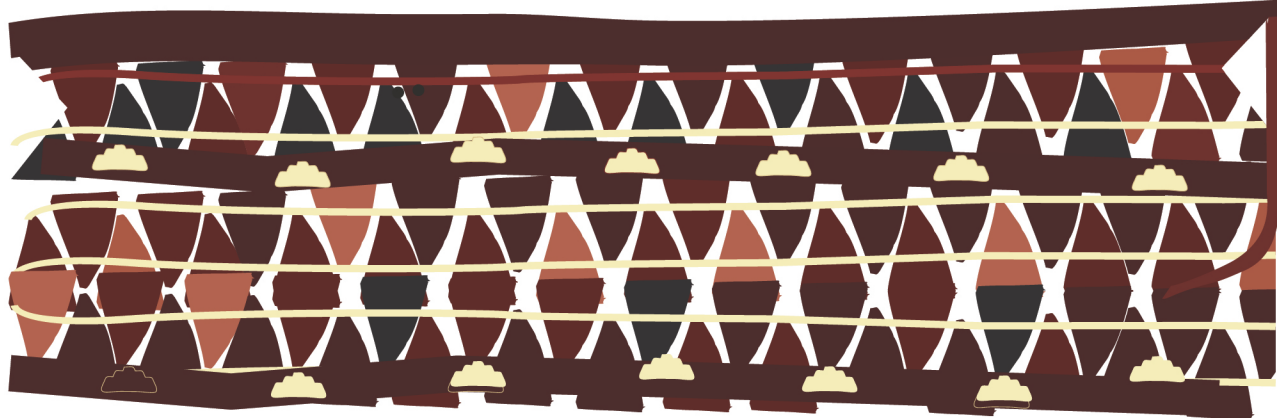
78 Author's interview with civil activist based in Mitrovica 28 November 2016, Bucharest.

79 Author's interview with civil activist based in Prishtina, 26 October 2016, Prishtina.; The expression used by a security expert in Prishtina during an interview on 28 October 2016, Bucharest was: "what can you do, when you cannot do anything?"

80 Author's interview with security expert based in Prishtina, 4 November 2016, Prishtina.

81 Author's interview with security expert based in Prishtina, 28 October 2016, Prishtina

82 Author's interview with civil activist based in Prishtina, 28 October 2016, Prishtina; Author's interview with security expert based in Prishtina, 4 November 2016, Prishtina.; An experiment in this regard could be to organize Russian movie nights in Prishtina for a year and evaluate the reaction of the community. Some security experts in Kosovo had already asked for the opening of a Russian cultural center in Prishtina and the request was made to the Representative Office of Russia in Pristina.



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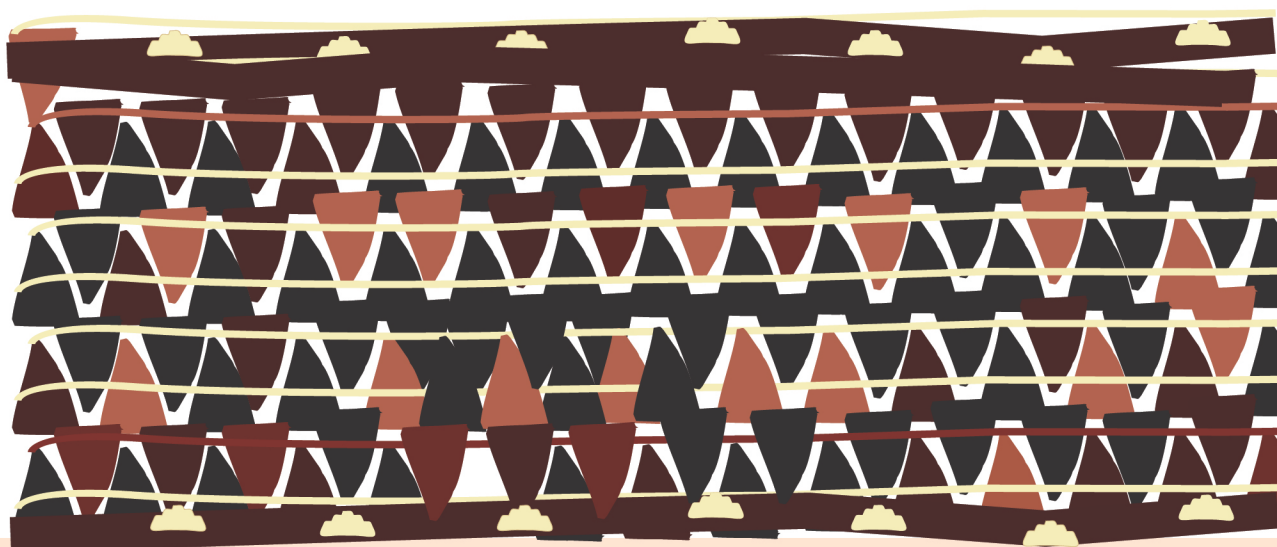
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